



House of Commons  
Environment, Food and Rural  
Affairs Committee

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# End of Life Vehicles Directive and Waste Electrical and Electronic Equipment Directive

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**Fourth Report of Session 2003–2004**

*Report, together with formal minutes, oral and  
written evidence*

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## Environment, Food and Rural Affairs Committee

The Environment, Food and Rural Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Environment, Food and Rural Affairs and its associated bodies.

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\*These Members were nominated as members of the Sub-committee. Paddy Tipping was the Chairman of the Sub-committee.

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at

[www.parliament.uk/parliamentary\\_committees/environment\\_\\_food\\_and\\_rural\\_affairs.cfm](http://www.parliament.uk/parliamentary_committees/environment__food_and_rural_affairs.cfm).

A list of Reports of the Committee in the present Parliament is at the back of this Report.

### Committee staff

The current staff of the Committee are Gavin Devine (Clerk), Fiona McLean (Second Clerk), Dr Kate Trumper and Jonathan Little (Committee Specialists), Andy Boyd and Louise Combs (Committee Assistants), Anne Woolhouse (Secretary) and Rebecca Flynn (Intern).

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## Summary

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We have produced a number of Reports about the way in which the Government deals with European legislation relating to waste. This Report forms part of that series, and in it we again express concern about the Government's approach.

In particular, we conclude that Government handling of the End of Life Vehicles Directive and, to a slightly less extent, the Waste Electrical and Electronic Equipment Directive, has been characterised by a lack of guidance and clarity. The result has been that stakeholders, particularly in the recycling industry, have not been clear about what is expected of them – and so have not, for example, been able to make decisions about investment.

Responsibility for enforcing many aspects of the Directives will fall on the Environment Agency. It will need additional resources to discharge its duties. In addition, local authorities will need support to deal with a likely increase in abandoned vehicles as a result of the End of Life Vehicles Directive. We call on the Government to make adequate funding available.

We again question whether Defra possesses enough of the specialist skills it needs to deal with this sort of Directive, particularly in terms of legal capacity. Some of our witnesses commented that Government lacks a proper understanding of the waste and recycling sector. A number of our recommendations are aimed at improving its level of expertise.



# 1 Introduction

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1. We have conducted a number of inquiries about the way the Government deals with legislation emerging from Europe which relates to waste. For example, our inquiry into the *Disposal of Refrigerators* looked at Government preparations for European Council Regulation 2037/2000 on Ozone Depleting Substances.<sup>1</sup> Our inquiries into *Hazardous Waste* and the *Future of Waste Management* examined the likely impact of a range of European Directives, particularly the Landfill Directive.<sup>2</sup> This inquiry, into the implementation of the End of Life Vehicles (ELV) and Waste Electrical and Electronic Equipment (WEEE) Directives, is the latest in the series.

2. Some concern has been expressed about the way in which the Government has dealt with the ELV and WEEE Directives. Prior to deciding to undertake our inquiry we noted in particular the Better Regulation Taskforce report which commented on the matter.<sup>3</sup> We also noted the report of the Trade and Industry Committee, published more than two years ago, about the ELV Directive.<sup>4</sup> Bearing in mind those reports, and also our conclusion in our report on the *Future of Waste Management* that

Defra views the negotiation and implementation of Environmental Directives as a painful chore rather than as a positive opportunity for change,<sup>5</sup>

we decided that we should look at the way that the Government had negotiated and begun to implement the two Directives.

## **Main conclusions of the Better Regulation Taskforce report, *Environmental Regulation: Getting the Message Across***

1. Government should issue a summary of waste regulations, set in the context of its overall policy.
2. Outside experts should be involved in waste policy, incl. by seconding them into Departments.
3. A project planning approach to new legislation should be used – and plans should be published.
4. Government should set out progress made in implementing the ELV and WEEE Directives across the EU, showing what decisions Member States have reached on issues of concern to the UK.
5. The DTI, Defra and the Environment Agency should establish a single ELV website.
6. Strategy for communicating with the public about ELV and WEEE Directives should be published.
7. Government should ensure that the Environment Agency has resources to enforce the Directives.
8. Government should publish a forward timetable of waste and environmental legislation.
9. Defra should exert more influence on the development of EU policy, ensuring it is proportionate.

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<sup>1</sup> Fourth Report, HC (2001-02) 673

<sup>2</sup> Eighth Report, HC (2001-02) 919

<sup>3</sup> Better Regulation Taskforce (2003) *Environmental Regulation: Getting the message across*, July 2003; the report is available on the internet, at: <http://www.cabinet-office.gov.uk/>

<sup>4</sup> First Report, *End of Life Vehicles Directive*, HC (2001-02) 299

<sup>5</sup> Eighth Report, HC (2002-03) 385-I, para.29

3. We announced our inquiry in September 2003. Our terms of reference were to consider:

In light of the report of the Government Better Regulation Task Force, published in July, the Committee will look at preparations made for the implementation of the End of Life Vehicles Directive and the Waste Electrical and Electronic Equipment (WEEE) Directive. It will also scrutinise the role played by the Government in negotiating each Directive, and – in the case of the End of Life Vehicles Directive – its subsequent transposition into national law, to ascertain whether there are any lessons to be learnt. It will particularly examine the capacity of the Department for Environment, Food and Rural Affairs to deal with such Directives.

Where appropriate the Committee will also examine associated legislation such as the Restriction on the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (ROHS) Directive.<sup>6</sup>

We took oral evidence between November and December 2003, hearing from a wide range of affected stakeholders. We would like to express our gratitude to those who provided evidence, both orally and in writing, and to those who discussed the Directives with us both formally and informally.

## 2 The Directives

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4. Waste and environmental legislation such as the ELV Directive and the WEEE Directive is increasingly decided upon at European Union level following negotiations involving national Governments. European environmental legislation is typically underpinned by the ‘polluter pays’ principle, which in basic terms requires those responsible for polluting the environment to pay the cost of cleaning it up, or of preventing pollution in the first place. The intention is to encourage waste prevention, to support greater recycling and re-use, and to improve the monitoring of final disposal of materials at the end of their life. The End of Life Vehicles Directive and the Waste Electrical and Electronic Equipment Directives follow these principles.

### End of Life Vehicles Directive

5. The ELV Directive came into force on 21 October 2000.<sup>7</sup> The deadline set for its transposition into national law was 21 April 2002, a date which was not met by any EU Member State.<sup>8</sup> The objective of the Directive is to make vehicle dismantling and recycling more ‘environmentally friendly’, by setting targets for the re-use, recycling and recovery of vehicles and their component parts and, in tandem, by encouraging manufacturers to ensure that their vehicles are as ‘recyclable’ as possible. Each year 8 or 9 million tonnes of

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<sup>6</sup> Press notice, 18 September 2003

<sup>7</sup> Directive 2000/53/EC

<sup>8</sup> See Q297; also see [www.defra.gov.uk](http://www.defra.gov.uk)



end of life vehicle waste is produced in Europe; the aim of the Directive is to minimise the proportion of that total which is disposed of in landfill or by incineration.<sup>9</sup>

6. The ELV Directive places a number of requirements on vehicle manufacturers. They are:

- to reduce the use of hazardous substances in the design of vehicles;
- to design and produce vehicles that facilitate the dismantling, reuse, recovery and recycling of ELVs; and
- to increase the use of recycled materials in vehicle manufacture, ensuring that after 1 July 2003 components marketed do not contain hazardous substances.

7. The Directive also requires that Member States establish collection and disposal systems for ELVs such that disposal and processing can only be carried out at authorised facilities. Those facilities will need to obtain a permit to comply with tightened environmental standards. A ‘certificate of destruction’ will only be issued if a vehicle is disposed of in an ‘environmentally sound’ manner. Finally, the Government have decided that until 2007 it will be the responsibility of the last known owner to dispose of the vehicle; afterwards it becomes the responsibility of the producer.

### **Transposition**

8. The Government has issued a number of consultation documents about the way in which it intends to transpose the ELV Directive into domestic law. In March 2003 Defra announced that it was seeking views on Article 6 and Annex I of the Directive, which relate to the treatment of end of life vehicles, and in particular the permitting of facilities which will be authorised to dispose of them. At the same time the Department of Trade and Industry issued a document about Articles 4, 5 and 8, and Annex II of the Directive, which deal with the prevention of waste, collection of end of life vehicles, and coding advice and dismantling information – in other words, the requirements relating to producer responsibility – and Article 9, which relates to the provision of information to the Commission about the implementation of the Directive.

9. Following these consultations, on 3 November 2003 the End-of-Life Vehicles Regulations 2003 came into force.<sup>10</sup> They put in place the foundations of the legal structure required to implement the Directive. However, agreement is still to be reached about the details of how producers will pay for the disposal of vehicles, amongst other matters.<sup>11</sup> The Department of Trade and Industry says that it will issue a further consultation on such matters “in due course”.<sup>12</sup>

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<sup>9</sup> The European Union Online - <http://www.europa.eu.int/comm/environment>

<sup>10</sup> The End-of-Life Vehicles Regulations 2003, SI, 2003, No.2635; see [www.hmso.gov.uk](http://www.hmso.gov.uk)

<sup>11</sup> Ev 47, para.3.2

<sup>12</sup> See [www.dti.gov.uk](http://www.dti.gov.uk), accessed on 26 January 2003

Table 1: Timetable of the ELV Directive

Date	
2000	October: End of Life Vehicles Directive comes into force
2001	
2002	April: Deadline for domestic transposition ( <i>not met by the UK</i> )
2003	March: Consultation documents issued by both Defra and the DTi November: End-of-Life Vehicles Regulations 2003 come into force
2004	End January: permits issued by Environment Agency to authorised treatment facilities
2005	
2006	First of ELV recovery targets to be achieved
2007	Producer responsibility and free takeback scheme begins

## The Waste Electrical and Electronic Equipment Directive

10. The WEEE Directive came into force on 13 February 2003.<sup>13</sup> It is due to be transposed into national law by 13 August 2004. The Directive deals with waste from electrical and electronic equipment. The list of items it covers includes large and small household appliances, such as fridges, televisions, toasters and hairdryers, IT, communications and lighting equipment, toys, medical equipment and vending machines.

11. The Waste Electrical and Electronic Equipment Directive has grown out of the Restriction on the use of certain Hazardous Substances in electrical and electronic equipment (ROHS) Directive, agreed in 1995.<sup>14</sup> Like the ELV Directive its central objective is to ensure that hazardous substances do not enter the environment, and to promote re-use, recycling and other forms of recovery of electrical and electronic waste. Like the ELV Directive the WEEE Directive places requirements both on Member States and on producers. The most important of these are:

- Member States are required to set up a collection system by 13 August 2005, under which private households can return electrical and electronic waste free of charge. Distributors supplying a new product must offer to take back waste equipment from private households. Producers must provide for the collection of waste other than from private households;
- producers are required to set up waste treatment systems (which comply with defined standards). They must set up systems for recovering WEEE. Five years after the Directive comes into force (in 2008) they must finance the collection, treatment, recovery and 'environmentally sound' disposal of WEEE from private households;

<sup>13</sup> Directive 2002/96/EC

<sup>14</sup> Directive 2002/95/EC

- by 31 December 2006 a minimum of 4kg of WEEE per inhabitant per year must be collected separately from other waste; and
- by 31 December 2006 the rate of recovery by average weight must be 80% for large household appliances; 60% for small household appliances, consumer equipment, electrical and electronic tools and toys; and 75% for IT and telecommunication equipment and waste containing cathode ray tubes. The rate of component material and substance re-use and recycling for gas discharge lamps must be 80%; 75% for large household appliances; 70% for small household appliances; and 65% for IT and telecommunication equipment. New targets will be established for the years after 2008.

### **Transposition**

12. Unlike in the case of the ELV Directive, the Government appears confident that it will meet the deadline of 13 August 2004 for transposition of the WEEE Directive into domestic law.. It has already issued two consultation documents. The first, issued in Spring 2003, sought initial views on how the Directive should be implemented. The second, issued in November 2003, set out Government proposals and invited comments by March 2004. A final consultation will take place from “late Spring 2004” on draft implementing Regulations for the Directive.<sup>15</sup>

**Table 2: Timetable of the WEEE Directive**

<b>Date</b>	
2003	January: ROHS Directive comes into force February: WEEE Directive comes into force
2004	March: End of consultation period on implementation of the WEEE and ROHS Directives August: Deadline for domestic transposition of the two Directives
2005	August: WEEE collection system operational
2006	December: First WEEE targets to be met
2007	
2008	New recovery, re-use and recycling targets to be established.

<sup>15</sup> See the Consultation paper on the Government’s proposals, issued in November 2003; [www.dti.gov.uk](http://www.dti.gov.uk)

## 3 Issues of concern

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### Issues for the recycling sector

#### Clarity

13. The most frequently repeated concern of our witnesses was that the Government had failed to clarify in good time what would be expected of the recycling sector once the Directives were implemented.<sup>16</sup> As a result companies had not been able to reach investment decisions, with the result that there was a risk that there would simply not be systems and equipment in place to deal these waste streams. For example the British Metals Recycling Association told us that only one of its 2,500 members had been able to invest in the facilities needed to fulfil the requirements of the ELV Directive.<sup>17</sup> The Environmental Services Association told us that:

“with less than a year before the WEEE Directive becomes law ... [our] members are still unsure of the Government’s timetable for producing relevant guidance and information. Such uncertainty impacts directly on issues related to land acquisition, planning, and the construction and permitting of the new facilities”.<sup>18</sup>

14. The Minister for Environment told us that he had some sympathy with the difficulties faced by those who need to make decisions about investment.<sup>19</sup> He argued that the ELV Directive in particular raises “complex issues”, and that the difficulties were not unique to the United Kingdom. However, the Better Regulation Taskforce put it well:

A balance is needed between flexibility and certainty. Stakeholders want the Government to take sufficient time to explore any flexibility offered by the Directives so that, as far as possible, the Regulations meet the needs of England and Wales. However, when it comes to making investments, they look for as much certainty as possible. The timing of business investment decisions is crucially dependent on having sufficient information available to reach a judgement on when to invest. Invest too soon and there is a risk that new facilities will stand idle; invest too late and business opportunities will be lost.

The starting point for giving stakeholders this certainty is to give them an understanding what the Government is trying to achieve.<sup>20</sup>

**We strongly recommend that the Government ensure that, as soon as possible, it issues clear guidance to the recycling industry about exactly what is expected of it, in order that it can make decisions to investment in new facilities. If it fails to do so it will exacerbate the potential problems associated with these Directives – such as, in the case of the ELV Directive, an increase in the number of abandoned cars. We further**

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<sup>16</sup> see, for example, Ev 58, para.12; Ev 25, para.26

<sup>17</sup> Q 275

<sup>18</sup> Ev 25, para.26

<sup>19</sup> Q320

<sup>20</sup> Better Regulation Taskforce (2003) *Environmental Regulation: Getting the message across*, July 2003, p.12

**recommend that over time the Government continue to update its guidance, and take steps to communicate its wishes *clearly* to stakeholders.**

## The 'own marque' system

15. It is currently intended that after 2007 each motor manufacturer will be responsible for proper disposal of its own marque of vehicles under the ELV Directive. In effect producers will contract directly with chains or groups of vehicle dismantlers to deal with 'their' waste vehicles. An alternative approach, advanced by the British Metals Recycling Association amongst others, is that producers should pay vehicle dismantlers indirectly, via a central pooled fund. Under such a system any dismantler could deal with any make of vehicle.

16. There are arguments in favour of each approach. The Minister of State from the Department of Trade and Industry claimed that "the own marque approach is a pure implementation of that principle that each manufacturer is responsible for the vehicles that they have produced",<sup>21</sup> since manufacturers will be *directly* responsible for disposing of their 'own' vehicles. Others are unconvinced. The British Metals Recycling Association told us that the own marque system would give manufacturers "inappropriate leverage" over recyclers.<sup>22</sup> The potential problems are twofold: first, manufacturers are likely to favour larger vehicle dismantlers, or those organised in chains, encouraging consolidation in the sector; and, second, the uncertainty resulting from the fact that manufacturers could choose to take work away from dismantlers overnight might discourage investment. The Association argued that "what we should be aiming for is a structure which involves the greatest number of recycling sites so we can continue to have neighbourhood recycling opportunities".<sup>23</sup>

17. The British Metals Recycling Association drew attention to three reports produced for the Government, each of which recommended a 'central fund' approach as opposed to the own marque system. **The evidence we have received makes us seriously question the 'own marque' approach to funding the disposal of end of life vehicles after 2007. The objective should be to ensure that complying with the ELV Directive is as straightforward as possible. We urge the Government urgently to re-examine whether that objective will best be achieved by encouraging consolidation and concentration in the dismantling sector, as the 'own marque' approach seems likely to do.**

## Issues for local authorities

### *Dealing with abandoned cars*

18. Underpinning our inquiry has been the concern that if the Directives are not implemented in the best way possible a fiasco like the 'fridge mountain' might result, with the risk that waste will be 'fly tipped'. This is a particular concern in relation to the ELV Directive. If end of life vehicles are worth more to vehicle dismantlers than the cost of their disposal they will pay to collect and dispose of them. Thus the market is dramatically affected by movements in world prices for scrap metal, and by disposal costs.<sup>24</sup> The fall in

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<sup>21</sup> Q326

<sup>22</sup> Q260

<sup>23</sup> Q259

<sup>24</sup> See, for example, the Society of Motor Manufacturers and Traders (Q15)

the price of scrap over recent years (which has recently recovered somewhat) has been accompanied by increases in abandoned cars. The effect of the ELV Directive will be that vehicle dismantlers will charge between £50 and £150 per vehicle for disposal. So between now and 2007, when the last owners of vehicles will be responsible for their disposal, there is a risk of a significant rise in the number of abandoned vehicles.

19. The evidence we received about how great the increase in the number of cars was likely to be was mixed:

- There was general agreement that around 340,000 vehicles are abandoned each year already;<sup>25</sup>
- West Sussex County Council told us that a sixth of all end of life vehicles were currently abandoned, and that “if the cost of depollution goes up we could see an awful lot of those transferring into the abandoned vehicle route”;<sup>26</sup>
- The British Vehicle Salvage Federation offered a ‘guesstimate’ of an increase in the number of abandoned vehicles to 500,000 per year, although one of its members told us that the number “is going to double, if not more”;<sup>27</sup>
- The British Metals Recycling Association said that “the figure will probably appear to quadruple”;<sup>28</sup> and
- The Environment Agency said that it thought the number of abandoned vehicles would go up, but would not double.<sup>29</sup>

20. The Government, however, said that it was “not convinced that there is going to be a problem on the scale that some people have predicted”, although it accepted that “it is inevitable in the transition period”.<sup>30</sup> The Society of Motor Manufacturers and Traders said that although there would be “some increase in the number of abandoned vehicles”, the problem would be contained by “steps that both the Government and DVLA and other operators are taking”.<sup>31</sup> In particular the DVLA has introduced a system of continuous registration of vehicles,<sup>32</sup> which the Government believes “will make a big difference”.<sup>33</sup> Nevertheless, the Government obviously believes that some increase in vehicle abandonment before 2007 is inevitable: the Office of the Deputy Prime Minister, for example, has revised the Fire Service target which refers to fires deliberately started in abandoned cars to allow for the effects of the ELV Directive.<sup>34</sup>

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<sup>25</sup> Ev 80, para.2

<sup>26</sup> Q139

<sup>27</sup> Q47

<sup>28</sup> Q263

<sup>29</sup> Q232 and Q233

<sup>30</sup> Q308

<sup>31</sup> Q13

<sup>32</sup> From 1 January 2004 the registered owner of a vehicle remains responsible for taxing it until the liability is formally transferred to a new keeper, or the vehicle is scrapped. Failure to re-license a vehicle incurs an automatic penalty of £80; the DVLA will check its records each month to identify those vehicles without a valid tax disc ([www.dvla.gov.uk](http://www.dvla.gov.uk))

<sup>33</sup> Q314

<sup>34</sup> ODPM Committee, First Report, *ODPM Annual Report and Accounts 2003*, HC (2003-04) 102-I, para.16.

21. The response of local authorities to the disposal of abandoned vehicles varies: there are examples of good practice. We were told that the ‘environmentally friendly’ disposal of a vehicle can cost a local authority around £360 (including police, fire and council staff time).<sup>35</sup> Until 2007, when responsibility passes to manufacturers, local authorities will be obliged to pay for increased numbers of abandoned vehicles – and in evidence they powerfully argued that they simply do not have the financial resources to do so.<sup>36</sup> The Minister for Environment assured us that the Government “has made additional sums available to local authorities for dealing with the problem [of abandoned cars]”,<sup>37</sup> but it is not clear that these resources are specifically for the problems which might arise from the ELV Directive. **Therefore, we recommend that the Government look again at the funds it has made available to local authorities for dealing with abandoned vehicles, specify in response to this report *exactly* what these sums are and how they have been allocated and distributed, and ensure that they are adequate to deal with increased abandonment up to 2007.**

### **Problems with the ‘own marque’ system**

22. After 2007 it is hoped that the problem of abandonment may diminish somewhat as producers, rather than last owners, become financially responsible for end of life vehicles. However, it is unlikely to go away altogether, and it appears that local authorities will continue to have a role to play at least in identifying abandoned vehicles and arranging for them to be taken away. **We are concerned that an ‘own marque’ approach will mean that it is more difficult for local authorities to deal with the problems of abandonment, since they will not simply be able to use a single contractor to deal with any and all abandoned vehicles. We invite the Government to reflect on the issue, and to explain exactly how in practice local authorities will deal with abandoned vehicles after 2007.**

### **Civic amenity sites**

23. Several of our witnesses discussed the way that waste electrical and electronic equipment would be collected from private homes as required by the WEEE Directive. Although collection of larger items by or on behalf of retailers or distributors, and separate collection by local authorities of smaller items, would be needed, witnesses also emphasised the importance of civic amenity sites, to which individuals could take waste.<sup>38</sup> The Environmental Services Association (ESA) said that civic amenity sites “will play a key role ... by facilitating its [WEEE’s] collection and separation from the municipal waste stream”. It argued that further development of existing civic amenity sites would be “easier, quicker and more cost-effective” than developing new collection and deposit infrastructure.<sup>39</sup>

24. However, there are a range of concerns about the existing civic amenity infrastructure and about its development. The ESA identified issues of

- Physically small sites, unable to take increased volumes of waste;

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<sup>35</sup> Q158

<sup>36</sup> Q143

<sup>37</sup> Q308

<sup>38</sup> Ev 24, para.10; Q69 [BRC]

<sup>39</sup> Ev 24, paras.17 and 18



- Inaccessible sites, or sites which are unable to take a large throughput of vehicles;
- The need for licences, in some cases, for hazardous materials (such as cathode ray tubes). Obtaining amendments to waste management licences will take time and impose costs on the operators of sites; and
- Sites might be restricted in what they can handle by the conditions placed on their original planning permission. Amending planning permission will also be costly and time-consuming.<sup>40</sup>

Moreover, in large parts of the country, particularly in inner cities, civic amenity sites may not even exist. Thus some expansion of the infrastructure is inevitable. **We believe that civic amenity sites have a crucial role to play in ensuring that waste electrical and electronic equipment can be collected separately from the rest of the municipal waste stream. We recommend that the current network of civic amenity sites be expanded, so that such sites are easily accessible to all. We recommend further development of those sites which already exist. In order to facilitate these recommendations we also recommend that the Government find ways to streamline the process of gaining and amending waste management licences for civic amenity sites, and of gaining and amending planning permission.**

## Issues for the Environment Agency

25. Both Directives will place new duties on the Environment Agency. In particular, the Agency will have responsibility for “regulating storage sites and treatment facilities for both ELV and WEEE; monitoring and enforcement of those sites to ensure compliance; and monitoring and enforcement of non-permitted sites”.<sup>41</sup> The Agency also says that “there are other duties which may fall to the Agency ... but as yet these are unclear. For example, registering producers, importers and compliance schemes for producer responsibility obligations and also for auditing achievement of recovery and recycling obligations”.<sup>42</sup> In addition, we have previously commented that the Agency should not “lose sight” of environmental crimes such as fly-tipping,<sup>43</sup> so we trust that it will respond vigorously to the problem of abandoned vehicles.

26. These additional responsibilities will place strain on the Agency. The British Vehicle Salvage Federation says that “we are also seriously concerned as to whether the Environment Agency will have sufficient resources to operate the new permitting requirements ...and be able to police the system”.<sup>44</sup> However, although the Agency agreed that it faced a number of challenges, it said that “it is important to keep this in perspective”.<sup>45</sup> Moreover, the Minister for Environment pointed out that the Agency had already received an increase in its budget to address its increasing workload. But we note the call of the Better Regulation Taskforce for the Environment Agency to be granted

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<sup>40</sup> Ev 24, para.20

<sup>41</sup> Ev 47, para.2.2

<sup>42</sup> Ev 47, para.2.3

<sup>43</sup> *The Future of Waste Management*, HC (2002-03) 385-1, para.37; see also the evidence taken by the Environmental Audit Committee’ Sub-committee on Environmental Crime – see [www.parliament.uk](http://www.parliament.uk)

<sup>44</sup> Ev 9, para.8

<sup>45</sup> Q228; Q230



additional resources by Government, or given powers to raise funds, specifically to deal with the ELV and WEEE Directives.<sup>46</sup> **We urge the Government to ensure that the Environment Agency is adequately resourced to deal both with the requirements of implementation of the Directives and with their consequences, and to identify in its response to this report *exactly* how much additional resource has been or will be allocated to the Agency for this purpose.**

### Printer cartridges

27. We received evidence from those involved in recycling printer cartridges which argued that cartridges should be included within the provisions of the WEEE Directive. It was pointed out that over the lifecycle of a laser printer, for example, ten times more waste by volume would result from the replacement of cartridges than would from disposing of the printer itself. The claim was made that to subject printer cartridges to the Directive would be good for the environment, since it would encourage their remanufacture and recycling.<sup>47</sup> Although the Government expressed sympathy with the argument made, it argued that “printer cartridges are consumables and they are just not in the scope of the Directive, unless they happen to be in the product when it is discarded”.<sup>48</sup> **Although we understand the argument made by the Government, we are concerned that excluding printer cartridges from the WEEE Directive will not encourage their sustainable re-use. We invite the Government to think again about the matter.**

## 4 Issues for Government

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### Resources

#### *Specialist skills*

28. During our inquiry into the *Future of Waste Management* we were told that Defra staff in particular were over-stretched, and that the Department lacked the skilled, expert staff needed to deal with complex European waste legislation.<sup>49</sup> The then Minister agreed that it was a matter of concern, but said that steps were being taken to address the problem. We are therefore particularly concerned that several of our witnesses to this inquiry again raised the matter. For example, Biffa told us that there was a “substantial skills gap within the Department”, and that Defra’s “economic skills appear limited”.<sup>50</sup>

29. A particular question is whether specialist legal staff are over-stretched. The British Metals Recycling Association claimed that “there have been a number of occasions during the development of the ELV Directive when papers have been held up due to [a] lack of

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<sup>46</sup> Better Regulation Taskforce (2003) *Environmental Regulation: Getting the message across*, July 2003, p.7, recommendation 7

<sup>47</sup> See E18 and E19

<sup>48</sup> Q343

<sup>49</sup> *The Future of Waste Management*, HC (2002-03) 385-I, para.31

<sup>50</sup> Ev 27, para.IV(i) and (iv)

legal advisors in Defra, without which the drafts could not be released”.<sup>51</sup> The Minister for Environment refuted the claim.<sup>52</sup> **Nevertheless, we recommend that Defra re-examine the workload placed on its specialist staff, including its lawyers, to ensure that they are not being asked to do too much, and that they are thus able to act efficiently and effectively.**

**30. Before embarking on the negotiation of Directives such as the ELV and WEEE Directives the Departments involved should review whether they have available the specialist skills and other resources needed to do so effectively. The Government should not agree to this sort of European legislation without a clear understanding of *all* of its ramifications.**

### ***Understanding the sector***

31. The British Retail Consortium raised a specific point. It complained about the “apparent lack of industry experience amongst officials”, urging “Government departments to draw on the advice of a range of experts from outside Government at the earliest opportunity”.<sup>53</sup> In doing so it echoed the comments of the Better Regulation Taskforce.<sup>54</sup> **We strongly recommend that Defra (and other Government Departments such as the Department of Trade and Industry) take steps to develop its understanding of the waste and recycling sector. We urge it to institute a programme of seconding outside experts into the Department to help with the negotiation and implementation of European legislation, and a programme of seconding officials out to work for short periods in the waste and recycling industry.**

### ***Engagement in negotiations***

32. A related point was made by the Environment Agency. It said that it would “welcome the opportunity, in a structured way, to become more directly involved in the negotiation of key Directives”.<sup>55</sup> After all, much of the practical work in overseeing the operation of environmental Directives ends up with the Agency, so its engagement in their negotiation would have considerable benefits. Once again, this was a point made by the Better Regulation Taskforce.<sup>56</sup> **We reiterate the recommendation made by the Better Regulation Taskforce that the Environment Agency should be directly involved at an early stage in the negotiation of European environmental legislation. We further recommend that the Government consider involving others, such as representatives of the waste and recycling industry, also at an early stage in the process.**

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<sup>51</sup> Ev 58, para.10

<sup>52</sup> Q318

<sup>53</sup> Ev 15, para.1.3

<sup>54</sup> Better Regulation Taskforce (2003) *Environmental Regulation: Getting the message across*, July 2003, p.6, recommendation 2

<sup>55</sup> Ev 47, Summary

<sup>56</sup> Better Regulation Taskforce (2003) *Environmental Regulation: Getting the message across*, July 2003, p.17

## Project management

33. One of the particular difficulties of the ELV and WEEE Directives is that the Department of Trade and Industry, Defra and the Environment Agency (as well as the DVLA in the case of the ELV Directive) all have a role to play in the implementation process. Several of our witnesses commented on the confusion and lack of clarity that had resulted. For example, the British Retail Consortium reported a “lack of any clear division of responsibilities between the Department of Trade and Industry and Defra. This confusion has led to unclear channels of communication for stakeholders and often misleading guidance in preparation for implementation”.<sup>57</sup> The Better Regulation Taskforce reached a similar conclusion.<sup>58</sup>

34. Our witnesses tended to support the recommendation of the Better Regulation Taskforce that what was needed was a project management approach in which it was clear which Department had been appointed as ‘leader’, and it then set out a timetable against which progress could be measured. Some drew a contrast between the ELV Directive, where such an approach had not been adopted, and the WEEE Directive, where – to an extent – it had.<sup>59</sup> **We support the recommendations of the Better Regulation Taskforce, and urge the Government to ensure (a) that a clear ‘lead’ Department is designated for each piece of environmental legislation, and (b) that a project management approach to the implementation of legislation is adopted. Doing so would go some way to avoiding a repeat of the confusion and lack of clarity which has afflicted the stakeholders of these two Directives.**

## 5 Conclusion

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35. In our introduction we mention our inquiry into the *Disposal of Refrigerators*. It is apparent, as a number of our witnesses observed, that in dealing with these Directives the Government has been determined not to repeat the mistakes made in relation to the European Regulation which changed the means of disposal of fridges.<sup>60</sup> We are content that the Government has not done so, at least not on anything like the same scale. **But it does seem likely that there will be problems of abandoned waste as a result of the way in which the ELV Directive is to be implemented. That said, for the moment the prospects for a ‘smooth’ transposition of the WEEE Directive do seem brighter. We nevertheless urge the Government to take steps, beginning with the recommendations of this report, to ensure that it remains in control of the process of implementing these Directives.**

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<sup>57</sup> Ev 15, para.1.2

<sup>58</sup> Better Regulation Taskforce (2003) *Environmental Regulation: Getting the message across*, July 2003, p.20

<sup>59</sup> see Ev 48, para.4.2

<sup>60</sup> Regulation (EC) No.2037/2000

## Conclusions and recommendations

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1. We strongly recommend that the Government ensure that, as soon as possible, it issues clear guidance to the recycling industry about exactly what is expected of it, in order that it can make decisions to investment in new facilities. If it fails to do so it will exacerbate the potential problems associated with these Directives – such as, in the case of the ELV Directive, an increase in the number of abandoned cars. We further recommend that over time the Government continue to update its guidance, and take steps to communicate its wishes *clearly* to stakeholders. (Paragraph 14)
2. The evidence we have received makes us seriously question the ‘own marque’ approach to funding the disposal of end of life vehicles after 2007. The objective should be to ensure that complying with the ELV Directive is as straightforward as possible. We urge the Government urgently to re-examine whether that objective will best be achieved by encouraging consolidation and concentration in the dismantling sector, as the ‘own marque’ approach seems likely to do. (Paragraph 17)
3. Therefore, we recommend that the Government look again at the funds it has made available to local authorities for dealing with abandoned vehicles, specify in response to this report *exactly* what these sums are and how they have been allocated and distributed, and ensure that they are adequate to deal with increased abandonment up to 2007. (Paragraph 21)
4. We are concerned that an ‘own marque’ approach will mean that it is more difficult for local authorities to deal with the problems of abandonment, since they will not simply be able to use a single contractor to deal with any and all abandoned vehicles. We invite the Government to reflect on the issue, and to explain exactly how in practice local authorities will deal with abandoned vehicles after 2007. (Paragraph 22)
5. We believe that civic amenity sites have a crucial role to play in ensuring that waste electrical and electronic equipment can be collected separately from the rest of the municipal waste stream. We recommend that the current network of civic amenity sites be expanded, so that such sites are easily accessible to all. We recommend further development of those sites which already exist. In order to facilitate these recommendations we also recommend that the Government find ways to streamline the process of gaining and amending waste management licences for civic amenity sites, and of gaining and amending planning permission. (Paragraph 24)
6. We urge the Government to ensure that the Environment Agency is adequately resourced to deal both with the requirements of implementation of the Directives and with their consequences, and to identify in its response to this report *exactly* how much additional resource has been or will be allocated to the Agency for this purpose. (Paragraph 26)

7. Although we understand the argument made by the Government, we are concerned that excluding printer cartridges from the WEEE Directive will not encourage their sustainable re-use. We invite the Government to think again about the matter. (Paragraph 27)
8. Nevertheless, we recommend that Defra re-examine the workload placed on its specialist staff, including its lawyers, to ensure that they are not being asked to do too much, and that they are thus able to act efficiently and effectively. (Paragraph 29)
9. Before embarking on the negotiation of Directives such as the ELV and WEEE Directives the Departments involved should review whether they have available the specialist skills and other resources needed to do so effectively. The Government should not agree to this sort of European legislation without a clear understanding of *all* of its ramifications. (Paragraph 30)
10. We strongly recommend that Defra (and other Government Departments such as the Department of Trade and Industry) take steps to develop its understanding of the waste and recycling sector. We urge it to institute a programme of seconding outside experts into the Department to help with the negotiation and implementation of European legislation, and a programme of seconding officials out to work for short periods in the waste and recycling industry. (Paragraph 31)
11. We reiterate the recommendation made by the Better Regulation Taskforce that the Environment Agency should be directly involved at an early stage in the negotiation of European environmental legislation. We further recommend that the Government consider involving others, such as representatives of the waste and recycling industry, also at an early stage in the process. (Paragraph 32)
12. We support the recommendations of the Better Regulation Taskforce, and urge the Government to ensure (a) that a clear 'lead' Department is designated for each piece of environmental legislation, and (b) that a project management approach to the implementation of legislation is adopted. Doing so would go some way to avoiding a repeat of the confusion and lack of clarity which has afflicted the stakeholders of these two Directives. (Paragraph 34)
13. But it does seem likely that there will be problems of abandoned waste as a result of the way in which the ELV Directive is to be implemented. That said, for the moment the prospects for a 'smooth' transposition of the WEEE Directive do seem brighter. We nevertheless urge the Government to take steps, beginning with the recommendations of this report, to ensure that it remains in control of the process of implementing these Directives. (Paragraph 35)

# Formal Minutes

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**Wednesday 11 February 2004**

Members present:

Mr Michael Jack in the Chair

Mr Colin Breed	Alan Simpson
Mr David Drew	David Taylor
Mr Mark Lazarowicz	Paddy Tipping
Mr Austin Mitchell	Mr Bill Wiggin

The Committee deliberated.

Draft Report [*End of Life Vehicles Directive and Waste Electrical and Electronic Equipment Directive*], proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 35 read and agreed to.

Summary read and agreed to.

*Resolved*, That the Report be the Fourth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No 134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman*).

Several memoranda were ordered to be reported to the House.

The Committee further deliberated.

[Adjourned till Wednesday 3 March at a quarter past Two o'clock.]

# Witnesses

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## Tuesday 11 November 2003

Page

Paul Everitt and Steve Franklin, **Society of Motor Manufacturers and Traders**

Ev 3

Dick Smith, Geoffrey Bridges and Alan Greenouff, **British Vehicle Salvage Federation**

Ev 10

## Monday 17 November 2003

James McKechnie and Nigel Smith, **British Retail Consortium**

Ev 16

Dirk Hazell, **Environmental Services Association** and Peter Jones, **Biffa Waste Services Ltd**

Ev 30

## Monday 8 December 2003

Julian Lucraft and Alice Roberts, **Local Government Association**

Ev 40

De Paul Leinster, Liz Parkes and Jeff Cooper, **Environment Agency**

Ev 49

## Monday 15 December 2003

Neil Marshall, Stuart Cottam and Shane Mellor, **British Metals Recycling Association**

Ev 61

Elliot Morley MP and Sue Ellis, **Department for Environment, Food and Rural Affairs**, and Stephen Timms MP and Jonathan Startup, **Department of Trade and Industry**

Ev 70

## List of written evidence

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Society of Motor Manufacturers and Traders Limited	Ev 1
British Vehicle Salvage Federation	Ev 9
British Retail Consortium	Ev 15
Environmental Services Association	Ev 22
Biffa Waste Services Ltd	Ev 26, 30
Local Government Association	Ev 39
Environment Agency	Ev 46
British Metals Recycling Association	Ev 58
Department for Environment, Food and Rural Affairs and Department of Trade and Industry	Ev 67
Retail Motor Industry	Ev 80
BACTA	Ev 80
Waste Watch	Ev 84
Manchester Chamber of Commerce and Industry	Ev 87
Local Authority Recycling Advisory Committee	Ev 89
Institution of Civil Engineers	Ev 89
S Norton and Co Ltd	Ev 91
Motor Vehicles Dismantlers' Association	Ev 92
Hewlett Packard Ltd	Ev 93
Static Control	Ev 96
UK Cartridge Recyclers' Association	Ev 97

## List of unprinted written evidence

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Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1 (tel: 020 7219 3074). Hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Biffa Waste Services (supplementary annexes)

British Metals Recycling Association (supplementary memorandum)



# Reports from the Committee since 2001

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## Session 2003–04

Third Report	Caught in the net: Cetacean By-catch of dolphins and porpoises off the UK coast	HC 88
Second Report	Annual Report of the Committee 2003	HC 225
First Report	Water Pricing	HC 121

## Session 2002–03

Eighteenth Report	Conduct of the GM Public Debate	HC 220
Seventeenth Report	Biofuels ( <i>Reply, HC 88, Session 2003-04</i> )	HC 929-I
Sixteenth Report	Vets and Veterinary Services	HC 703
Fifteenth Report	New Covent Garden Market: a follow-up ( <i>Reply, HC 123</i> )	HC 901
Fourteenth Report	Gangmasters ( <i>Reply, HC 122</i> )	HC 691
Thirteenth Report	Poultry Farming in the United Kingdom ( <i>Reply, HC 1219</i> )	HC 779-I
Twelfth Report	The Departmental Annual Report 2003 ( <i>Reply, HC 1175</i> )	HC 832
Eleventh Report	Rural Broadband ( <i>Reply, HC 1174</i> )	HC 587
Tenth Report	Horticulture Research International ( <i>Reply, HC 1086</i> )	HC 873
Ninth Report	The Delivery of Education in Rural Areas ( <i>Reply, HC 1085</i> )	HC 467
Eighth Report	The Future of Waste Management ( <i>Reply, HC 1084</i> )	HC 385
Seventh Report	Badgers and Bovine TB ( <i>Reply, HC 831</i> )	HC 432
Sixth Report	Rural Payments Agency ( <i>Reply, HC 830</i> )	HC 382
Fifth Report	The Countryside and Rights of Way Act 2000 ( <i>Reply, HC 748</i> )	HC 394
Fourth Report	Water Framework Directive ( <i>Reply, HC 749</i> )	HC 130
Third Report	The Mid-term Review of the Common Agricultural Policy ( <i>Reply, HC 615</i> )	HC 151
Second Report	Annual Report of the Committee 2002	HC 269
First Report	Reform of the Common Fisheries Policy ( <i>Reply, HC 478</i> )	HC 110

## Session 2001–02

Tenth Report	The Role of Defra ( <i>Reply, HC 340, Session 2002-03</i> )	HC 991
Ninth Report	The Future of UK Agriculture in a Changing World ( <i>Reply, HC 384, Session 2002-03</i> )	HC 550
Eighth Report	Hazardous Waste ( <i>Reply, HC 1225</i> )	HC 919
Seventh Report	Illegal Meat Imports ( <i>Reply, HC 1224</i> )	HC 968
Sixth Report	Departmental Annual Report 2002 ( <i>Reply, HC 1223</i> )	HC 969
Fifth Report	Genetically Modified Organisms ( <i>Reply, HC 1222</i> )	HC 767
Fourth Report	Disposal of Refrigerators ( <i>Reply, HC 1226</i> )	HC 673
Third Report	Radioactive Waste: The Government's Consultation Process ( <i>Reply, HC 1221</i> )	HC 407
Second Report	The Countryside Agency ( <i>Reply, HC 829</i> )	HC 386
First Report	The Impact of Food and Mouth Disease ( <i>Reply, HC 856</i> )	HC 323







# Oral evidence

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## Taken before the Environment, Food and Rural Affairs Committee: Environmental Directives Sub-Committee

on Tuesday 11 November 2003

Members present:

Mr David Drew  
Mr Austin Mitchell

Joan Ruddock  
Paddy Tipping

In the absence of the Chairman, Paddy Tipping was called to the Chair.

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### Memorandum submitted by the Society of Motor Manufacturers and Traders Limited (SMMT) (E11)

1. The SMMT is the leading trade association for the UK motor industry. It represents some 600 member companies ranging from vehicle manufacturers, component and material suppliers to power train providers and design engineers. The motor industry is an important sector of the UK economy. It generates a manufacturing turnover approaching £45 billion and supports around 850,000 jobs.

2. The SMMT welcomes the opportunity to comment on the issue of the implementation of the End of Life Vehicle Directive. Vehicle manufacturers and their supply chain are leaders in environmental management in their manufacturing facilities and product development. Automobile manufacturers have for many years designed vehicles not only to be an enjoyable, safe and reliable form of transport but also to minimise their impact on the environment during manufacture, in use and at the end of their life.

3. The role of UK Government departments and Ministers with regard to the ELV and WEEE Directives can be divided into two parts. The role taken in formulating and shaping the Directives in Brussels and their subsequent implementation once published in the official journal.

#### BACKGROUND

4. The European Parliament called on the European Commission to legislate on ELVs in November 1996. The Commission took the view that a specific directive was necessary given the importance of vehicle waste.

5. The directive requires that vehicle, material and equipment manufacturers must:

- Endeavour to reduce the use of hazardous substances when designing vehicles.
- Design and produce vehicles which facilitate the dismantling, re-use, recovery and recycling of ELVs.
- Increase the use of recycled materials in vehicle manufacture.
- Ensure that components of vehicles placed on the market after 1 July 2003 do not contain mercury, hexavalent chromium, cadmium or lead, except in the cases listed in Annex II of the directive.

6. The directive also introduces provisions for the collection and treatment of all ELVs. Member States must set up collection systems for ELVs and for waste used parts. They must also ensure that all vehicles are transferred to authorised treatment facilities, and must set up a system of de-registration upon presentation of a certificate of destruction. Such certificates are to be issued when the vehicle is transferred, free of charge, to a treatment facility.

7. The last owner of an ELV, complete with all essential components, that has no or a negative value will be able to dispose of it free of charge, with producers meeting all, or a significant part, of the cost of applying this measure.

8. The storage and treatment of ELVs is also subject to strict control. Establishments or undertakings carrying out treatment operations must de-pollute ELVs before treatment and recover all environmentally hazardous components. Priority must be given to the re-use and recycling of vehicle components.

9. At the moment, around 80% of ELVs by weight are recycled. The aim of the directive is to increase the rate of re-use and recovery to 85% by 2006, and to 95% by 2015. It also aims to increase the rate of re-use and recycling over the same period to at least 80% and 85% respectively by average weight per vehicle and year. Less stringent objectives may be set for vehicles produced before 1980.

10. The motor industry has been engaged in addressing the issues raised by ELVs for some considerable time. In 1991 the Automotive Consortium On Recycling and Disposal (ACORD) was established to develop and implement a voluntary multi-industry strategy to improve the existing disposal process. Its objective was to achieve a reduction in the amount of automotive shredder residue going to landfill.

11. In 1997 ACORD signed a voluntary inter-sector agreement on the treatment of ELVs. The agreement contained a commitment to improve the recovery of material from ELVs to 85% by 2002, and 95% by 2015. It was recognised that a lot of effort would be needed to ensure that new processes were implemented to make recovery of non-metallic materials, and in some instances, the energy value contained in them, considerably more effective.

#### EUROPEAN PROCESS

12. The only previous UK experience with producer responsibility legislation was in respect of the Packaging Waste Directive. The much lower recycling targets and the lack of retrospective liability did not make this an ideal template on which to base the ELV and WEEE legislation. Therefore a fresh approach was required.

13. ELVs account for less than 1% of total UK waste going to landfill and it could be deemed disproportionate to introduce legislation in a sector that already recycles in the region of 80% of its product by weight. There are other legislative drivers that could have been used to effect a further diversion of automotive waste from landfill to recovery.

14. The effect of the contingent liability that producers would have to recognise in their balance sheets for the existing vehicle parc may not have been fully explored when the Directive was being formulated. We are encouraged that through the consultation process DTI is working with the manufacturers to find an implementation regime that would allow this burden to be managed in an acceptable way.

15. In accordance with article 175 of the EU treaty on which the Directive is based, Member States are entitled to impose even more stringent legal requirements. This could have the effect of varying specific product requirements between Member States acting against a common internal market in Europe.

16. The final Directive is open to different interpretations and as a consequence no Member State had implemented by the required date of 21 April 2002. Of those Member States that have now implemented the Directive there are variations in interpretation which has caused the Commission to issue infringement proceedings against some of the early adopters.

17. The requirements of sector specific directives are not consistent; the material restrictions in the ELV and the Restriction of Hazardous Substances Directives are different. The scope of the WEEE directive has potential overlaps with the ELV Directive and this may be further complicated by directives covering landfill and tyre disposal.

#### UK IMPLEMENTATION

18. Government departments have the task to project manage the total process from influencing the Directive with help from UK industry experts through to the implementation stage, setting clear objectives and timings to guide the process through to completion. Whilst this has not always been achieved, stakeholders appreciate that they have been engaged in the consultation process and that recommendations and concerns have been considered.

19. In formulating legislation that suits the UK's circumstances, Government has to be aware of how other Member States are transposing directives and ensure that UK business is not put at any disadvantage. It is therefore vitally important that DEFRA and the DTI continue to consider the legislation being implemented in other Member States and consult with stakeholders on the implications of various aspects.

20. The process is greatly improved when there is clear political guidance on how legislation should be implemented. The early commitment from the Prime Minister and the Secretary of State for Trade & Industry that the ELV Directive would be implemented with a light regulatory touch and would not disadvantage UK industry ensured that DEFRA and DTI have not sought to over burden industry by exceeding the requirements of the Directive.

#### VEHICLE INDUSTRY POLICY & EUROPEAN REGULATION

21. The UK Government has taken action to improve co-ordination between government departments and consultation with industry on legislation that impacts on the automotive sector. A Vehicle Industry Policy & European Regulation (VIPER) group has been established.

22. The VIPER group meets quarterly and consists of a wide range of government officials and industry representatives. Four meetings have taken place to date. DTI's Automotive Unit provides the secretariat. Regular VIPER participants include officials from different parts of DTI, DfT, DEFRA, HMT and Cabinet Office, and representatives from key trade associations and a variety of automotive manufacturers, retailers and leasing companies.

23. The meetings offer an opportunity to update the group on key work-streams being developed domestically and by the European Commission and to consider emerging issues where co-operation is desirable. This is aided by the use of a key issues chart, which highlights particular current issues and employs a star rating system to monitor issue development and the consultation process. The chart also contains details of the lead policy official and trade association interest, is updated regularly and helps inform agendas for the quarterly meetings and action points.

#### RECOMMENDATIONS

1. Government must ensure that when negotiating new EU policy and regulation it has informed opinion from stakeholder experts. It would then be in a position to establish a strong UK position and be influential in Brussels. The Vehicle Industry Policy and European Regulation (VIPER) committee should assist with this process.

2. We recommend that Government project manage the total process, with critical events and dates stated, roles and responsibilities defined, and clear communications established from one source to stakeholders.

October 2003

*Witnesses: Mr Paul Everitt, Head of Policy and Economics, and Mr Steve Franklin, Team Leader, Environment, Society of Motor Manufacturers and Traders, examined.*

**Q1 Paddy Tipping:** I am delighted to welcome Paul Everitt, Head of Policy and Economics, and Steve Franklin, who is a team leader, both from the Society of Motor Manufacturers and Traders. Thanks for coming. As you know, this is the beginning of an inquiry into how the Government implements European environmental Directives, particularly the WEEE Directive and the End-of-Life Vehicles Directive. Maybe you could, to start the inquiry, just tell us what effect it is going to have on your members and whether there will be different effects on different members within your association.

**Mr Everitt:** Obviously we are most, I think, experienced and equipped to deal with the End-of-Life Vehicle Directive rather than the WEEE one. I think from our perspective the ELV Directive is perhaps one of the most challenging pieces of legislation that we in the automotive sector have had to deal with certainly in recent times. That is mainly because it affects a wide variety of our activities and operations, so it sets recyclability standards and design standards for new vehicles, it bans the use of certain hazardous materials and it requires us to start marking components. It requires us to produce dismantling information and documentation as well as obviously the take-back and recycling of all end-of-life vehicles, so it impacts on our operations very much from cradle to grave and introduces to us activities that we had not been involved with before now. If we look at the scale of impact, clearly it does vary greatly depending on the organisation concerned both in terms of the different size of organisation operating in the UK, but I guess the traditional view is that all vehicle manufacturers are these sort of global monoliths that operate in every part of the world and it is true that they do, but in each Member State and certainly in the UK the corporate structure is going to be very different. There are those which are the UK branches of these global organisations and there are others which are essentially independent companies that distribute certain brands.

**Q2 Paddy Tipping:** What is the specialist car maker?

**Mr Everitt:** Again that would be a slightly different category and one of the areas I was going to deal with. You have certain brands and obviously where the market share is relatively small there will be small independent companies. All they do essentially is they are the UK distributor for a particular brand and they are, if you like, much akin to an SME. In addition, you will have a whole series of small-volume vehicle manufacturers whose products are obviously of a very different order, the volumes they produce, et cetera, et cetera, so all of these will have perhaps a variety of different impacts. Now, clearly there has been a lot of attention focused on the take-back requirements and the fact clearly is that if you have had a market share which has fallen in recent times, then you are going to find yourself, if you like, picking up a large park of end-of-life vehicles compared with new vehicles you are actually selling. That has been problematic, but it is probably not the biggest issue and many of the issues that we are dealing with are organisational and administrative issues. As I say, the size of organisation and the back-up they will have varies greatly and it is the access to information and support on a lot of quite detailed and technical areas which in actual fact have been some of the most demanding issues.

**Q3 Paddy Tipping:** So in general terms the bigger the company, the better it is prepared?

**Mr Everitt:** It is the better they are likely to be prepared and the better able they are to deal with some of the issues that arise, yes.

**Q4 Paddy Tipping:** But surely manufacturers want to get in front of this, so a lot of it is about good design and making sure that your future designs are going to meet the requirements of the Directive? Is that right?

**Mr Everitt:** I would say that certainly the vehicle manufacturers have been working on improving the recyclability of their products and design for

11 November 2003 Mr Paul Everitt and Mr Steve Franklin

recycling for many years and yes, from that perspective, if you like, the new product end of the market is one with which we are familiar with dealing because the new regulations apply to new products and new models, so there is a process for handling those issues which is much more secure and much more tried and tested. I think it is the areas into which this Directive strays where there is no experience, particularly dealing with the sort of retrospective elements of the Directive, that created more significant problems.

**Q5 Paddy Tipping:** We are going to spend a lot of time with you about the older end of the market in a minute or two, but let me just ask you this before we move on: you are looking to the future, you are preparing new designs, you are building in value for money, so there must be a cost in that, but who is going to bear the cost? Is it the manufacturers or would it be passed on to the consumer, the customer?

**Mr Franklin:** As Paul said about the design for recycling, one of the other things that the Directive has said is that we have got to eliminate certain materials from the vehicle and that is where some of these costs have accumulated in vast measure. First of all, if you have the sum of the parts of a vehicle, they now have to be expanded for everyone to know exactly what is in them, so it has had to go right down to the suppliers which once again does start to impact on SMEs, so you go down from tier one to two and three. The supply base has then got to feed that information back up, saying whether or not these substances are in the product, so there is a big cost implication there. In fact a whole database has been set up, an international materials database, to try and monitor that and it has not been easy. There are still materials that have not been successfully eliminated and Annex 2 of the Directive has extended the time period for those to be eliminated, so there are problems and massive costs from that. In the UK we estimate it is something like £500 million for that type of implementation, such as changing paint shops where there is lead paint. One example for a car company is that even if their lifespan is very reduced, there is only another year or so to go, they have still got to change components and in the case of fuel tanks, which has affected quite a few people, it is a major cost. Therefore, we arrived at a figure of something like £500 million. You ask the question as to whether that will be passed on to the customer, it is a very competitive market out there and cars are not cost plus—

**Q6 Paddy Tipping:** That is a no then, is it?

**Mr Franklin:** It will creep through, but basically it will be a cost reduction exercise through the piece and that will not automatically just go on the price of the car.

**Q7 Mr Mitchell:** It is surely a yes. It will end up as a yes, but that is not my question. The question is this: here you are incurring these costs for cars produced for the European market, but you also export cars on to the international market, so is that

going to be a competitive disadvantage to you? Other manufacturers in Japan who export on to the world market, not Europe, and America will not be bearing a similar cost increase and adding it on to the price of their cars. Are these requirements going to be a competitive disadvantage on the international market?

**Mr Franklin:** No, they will not, the reason being of course that Japan, Korea and even the States are importing into Europe, so they have to comply with the Directive anyway, so it probably will not put us at a competitive disadvantage in that respect. It is fair to say that most vehicle manufacturers around the world are responding to the design requirements of the European End-of-Life Vehicle Directive.

**Q8 Mr Mitchell:** But they are not meeting necessarily the same requirements for their market.

**Mr Franklin:** There will be small differences, but they will still need to comply in Europe, so they will have to take those measures. Japan has its own ELV legislation. America does not, but it is tracking ours very closely because it knows that if it wants to sell into this market, as it does in Germany, for instance, where it is quite a reasonable market, then it has to comply with the EU Directive. In fairness, some of these engineering costs are shared. We manufacture cars globally and across Europe, so some of those development costs and engineering costs are shared over not just the UK market.

**Q9 Joan Ruddock:** I want to go on to your members' responsibilities post-2007 and look at the problems of disposal. I think all MPs are very conscious of how many cars are disposed of on our streets all of the time and I really want to look at how you anticipate that end-of-life vehicles are going to be disposed of post-2007. What sort of mechanisms have your members thought of in terms of funding that disposal?

**Mr Everitt:** Obviously we are still awaiting the Government's consultation on proposals for post-2007. Our understanding is that it will be based on what is termed an "own-mark" model which basically means that each individual vehicle manufacturer will take responsibility for the vehicles that it has placed on to the market and we anticipate that will be done through each individual vehicle manufacturer contracting with a network of authorised treatment facilities so that last owners can take their vehicles back to one of those contracted facilities so that they can have the car disposed of free of charge.

**Q10 Joan Ruddock:** How convenient do you think the placing of those facilities is going to be?

**Mr Everitt:** Again it is a key issue and one I guess we are still in dispute on and in discussion with the DTI on. I think from a vehicle manufacturer's point of view, we support an own-mark approach and we are meeting our responsibilities to do it in a fair, reasonable and equitable manner. What we have said is that because of the nature of the market, there are some mass- volume vehicle manufacturers who have many hundreds of thousands of end-of-life



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vehicles that will turn up each and every year and the kind of network that they would be expecting to put in place will be very different from, let's say, a vehicle manufacturer who has either a very small percentage of the market or has a very niche product which means that there are likely to be relatively few vehicles turning up every year. What that means is that we have to have a system that is reasonably flexible. Equally, as we have mentioned earlier on, market shares are shifting, so we would expect to see or we would require the network and its coverage to be flexible so that we can expand as market shares grow and diminish as is necessary. I think our undertaking is that we will be putting facilities or contracting facilities in the places where those end-of-life vehicles are arising and our undertaking is to make them as accessible as possible. What we have said as well is that in certain areas of the country where population densities are very low and where there are not very many end-of-life vehicles arising, we would like to come up with what we have termed "more flexible" approaches which may be a number of vehicle manufacturers clubbing together to provide a facility, it may be that it will be a collection facility or a number of collection facilities, it may be a Freephone number. We have not at this stage said that that is how it is going to be because obviously the legislation is not set, but I think our undertaking is very much that we will meet our responsibilities. We will have the networks that are appropriate to the number of vehicles arising and the places where they are arising. Clearly we are going to require far more facilities in a metropolitan area than we are in the more rural areas simply because there are far more vehicles pitching up.

**Q11 Joan Ruddock:** Given those uncertainties, are you able to make any calculation about what the additional costs are going to be on disposing of vehicles?

**Mr Everitt:** I think there are two phases being the period up to 2007 and then after 2007. Our contention throughout this process has been that there is value in an end-of-life vehicle both in terms of materials and in terms of parts. We believe that the market can release more effectively some of that value to ensure that costs are minimised. I have to say at the moment that we have tried to avoid bandying around, "It's going to cost this, that and the other" because there are a whole series of issues that are unknown at the moment. Our contention is very much that post-2007 we believe those costs can be minimised and in some cases there will be no cost, but that depends again on how actively the market operates, how innovative some elements of the marketplace which are not within our control adapt to new circumstances and indeed how the regulations are actually enforced. I think one of the key issues at the moment is that there are a lot of what we might call marginal or informal operators who perhaps do not abide by all of the regulations that currently exist and clearly are unlikely to be able to meet the requirements of the more demanding environmental standards that facilities will need to meet. We believe that if those facilities are able to

operate effectively, which means they are not being undercut by people who do not meet the same high standards, we believe that process will mean that we will have some very professional businesses out there who will be able to focus on improving their own productivity and maximising the value from the vehicles that they are able to take in.

**Q12 Joan Ruddock:** You have suggested that perhaps there will not be any additional costs, but were there to be additional costs, is the consumer going to have to pay in the price of a new vehicle?

**Mr Everitt:** I think the points that Steve made earlier on apply. We would love to be able to think that we could put up the prices of cars to cover these additional costs. Sadly for us, in the real world there is a price for cars that the consumer is prepared to pay. What we have to do is find ways and means of absorbing those costs in the most effective manner and I think we need to look at the whole supply chain. One of the reasons why there is pressure on suppliers in the UK, why people are opting to source from outside of the UK and indeed outside of the European Union is that we need to cut costs to be able to absorb this kind of additional cost.

**Q13 Paddy Tipping:** Let's go to pre-2007 as this is where the problem is going to be. Just take us through how you see the scenario there. Is it fridges piled up all over the place again?

**Mr Everitt:** Again I think we have been around the abandoned vehicle problem a few times and I have to say that the reason there are currently abandoned vehicles bluntly is because the last holder of that vehicle, firstly, is irresponsible and, secondly, there is not an effective mechanism of tracking, identifying and penalising them. Now, we believe that the steps that both the Government and DVLA and other operators are taking will reduce that problem, but we suspect that there will be some increase in the number of abandoned vehicles almost as a success measure because the more pressure there is to track registrations effectively, the less attractive it is for last holders who have not got their vehicles taxed, insured and licensed to keep hold of them.

**Q14 Paddy Tipping:** We have been given a figure of 340,000 dumped cars each year. You are saying it might go higher, but continuous registration will help. Would you like to put a prediction on how far that 340,000 is going to grow per year up to 2007?

**Mr Franklin:** I think Alun Michael made a statement in the House last October that it was 238,000. Now, Terry Barnard, the Head of Enforcement at the DVLA, has put a lot of these measures into place and I have asked him the question, "How will you measure the success of these measures?" One of the measures of it looking successful is that there will be a small increase in abandonment as people, who do not want to declare, who are holding on to cars which are attached to some criminality, need to get rid of them because we hope, we feel fairly sure that these measures will take effect quite well. You are going to have to have an electronic certificate of destruction and if you do not have that certificate,

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you have got continuous taxation of the vehicle, so I think it will narrow down. There will always be abandonment of some form, but it will be at a reduced level. I think it will go up for a short time and then it will come down and it will be fairly constant at a low level.

**Q15 Mr Mitchell:** I think that is a pious hope. Indeed it seems to me that you are going into this on a wing and a prayer in many respects, but let's just take the disposal of current vehicles. It seems in Grimsby that there is a habit of going along to the pub with an old vehicle and flogging it to an asylum-seeker for £30 who then drives around in it untaxed, uninsured, or to anybody else in need of wheels. I am not going to slur asylum-seekers, but there have been a number of cases. People will do anything really to get rid of a vehicle without paying. They will drop it in a ditch, they will flog it to some naive person, they will encourage kids to steal it, joyride in it, dump it and burn it. As soon as a charge comes in, whether it is in your machinery of disposal after 2007 or it is in the chaotic situation we are now in, there is going to be cheating on an enormous scale.

**Mr Franklin:** You are absolutely right and I am pleased that you agree with me on one thing, that they are used for criminal purposes and there is illegal transfer of ownership, all of which will be tightened up in the future, in 2004. Now, obviously the motor industry is not responsible for enforcing that and as long as these measures are enforced properly, we believe that will go down. Yes, people are abandoning today and one of the things that is always widely said is that the price of scrap, having fallen, is why they are not being collected. Now, I live in Buckinghamshire and the Council for free take back vehicles. In the back of my local paper you can see adverts to take back cars at no cost to a local dismantler. What has happened when people have abandoned cars is that there have been these itinerant traders who pick them up and take them to recycled metal dealers. Now, the Directive and the legislation will not cater for people like that and cars will have to be treated properly so they have got to go to authorised treatment facilities. It is an effect of the Directive that this itinerant person, who has been taking up dumped vehicles for the price of the scrap, will not be able to operate at whatever level the scrap price reaches.

**Mr Everitt:** I think the key point is that abandoned vehicles are a current problem and have been a problem for a significant period of time. The entering into force of this Directive is not suddenly the key off to making the problem worse—

**Q16 Mr Mitchell:** But there are charges involved. It is a problem now and because people are going to have to pay to get rid of vehicles, it is going to make the whole situation worse.

**Mr Everitt:** Certainly I would suggest that where you have responsible motorists, they tax, they insure and they will dispose of their vehicles appropriately. Where you have irresponsible people, they will not tax, not insure and, therefore, not dispose of. I do not think anything is significantly changed. From

my experience of having disposed of a vehicle recently, one phone call to my local authority and it cost £25 to get the vehicle picked up and removed. Now, I do not think that is an unreasonable cost for anyone to be faced with. The only reason people do not do that is because they feel that either they do not want to or they know that there is no comeback and that is a direct consequence of the way that the transfer of registration system has operated in the past.

**Q17 Mr Mitchell:** Well, you are speaking, I am sure, as honest, upright people.

**Mr Everitt:** That is the only way the motor industry can speak.

**Q18 Mr Mitchell:** But a lot of people do not fit that description and are cheapjack about these things and are not prepared to fork out. Actually £25 is a small charge compared to the charges in some parts of the country. I am not saying that people in Grimsby are more disposed to cheating than anybody else; they are a noble, wise, far-sighted set of electors in Grimsby, but I do notice a growing tendency to fiddle around the issue and dispose of cars in all kinds of ways. Now, the essence of that, I would assume, is that the Government needs to be tougher both about the registration procedure and about the disposal. Would you agree with that?

**Mr Everitt:** Yes, certainly. I think we would make the point again that every time that the DVLA or local authorities have operated clamp-downs on vehicle taxation and licensing issues, they harvest a huge number of vehicles. Either they collect additional monies or they fine people who just hand over the vehicle and walk away. Either way, I think that is the route by which you will stem future problems.

**Q19 Paddy Tipping:** So you want to see further government action on clamp-downs?

**Mr Everitt:** I think basically it is a resource issue.

**Mr Franklin:** And it does not just impact on this, but those unregistered cars are going through congestion charge zones, speed cameras, et cetera, totally undetected.

**Q20 David Drew:** I think we subtitled this inquiry, "Not The Fridge Problem Again Inquiry" because some of us went through that and it did not do an awful lot for Michael Meacher when he was the Minister responsible. I want to look at the preparation and planning to make sure that this does not happen again. Just before I get on to that, looking at your evidence, I see that you already recycle 80% by weight and I want you to explain what that actually means. Also in order to get to 85%, let alone to 95%, it seems to be quite a steep step change. From 80 to 85% to most lay people does not sound like an enormous increase and yet you are going to take a good number of years to do that, let alone to get to 95% which of course is still not 100%, so there is the issue of what happens to the other 5%, so can you just fill me in on this a little bit?

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**Mr Franklin:** I will try. The figure you quoted, 80%, will probably be disputed by other people in the room. It never was disputed previously but as we are getting close to the legislation and potentially uneconomic recycling has a cost attached to it then clearly the numbers are more important. The Commission has still yet to decide how the recycling protocols will work, so once that is in the public arena and it has been decided we will at least have a calculation method to work out how we are going to calculate recycling amounts. Yes, are you right, I think going from let us say 78–80% up to 85% is difficult but we will be in a much more controlled environment and there will be people in there who will be able to leverage certain things. We are not particularly interested in tyres at the moment because tyres are now banned from landfill but there is an opportunity for them to be used for energy in cement kilns, etc. Now that the motor industry has to get involved in that and see these targets moved then they are going to have to start leveraging these products. Equally there has been a lot of work done on plastics, the methodology is proven, the economics are slightly uncertain and what we have to do is trim the economics. I believe we can get to the 85% target by fairly conventional methods, I do believe that the 95% target is going to be extremely difficult. I think the Commission recognises they may have to look at energy recovery and feedstock recycling because I do not think conventional methods are going to get us there. This is the subject on a thematic strategy on waste they have launched and I think it is going to go down that road.

**Q21 Mr Drew:** What is it that you cannot easily recycle, what is in the 5 to 15%?

**Mr Franklin:** It is not so much that you cannot recycle, you can almost recycle anything at a cost. We are looking at recycling economically. We have conflicting interests in the motor manufacturing field, we tried to lighten weight to get fuel consumption reductions so we would get less CO<sub>2</sub> emissions, that might mean using carbon fibre or glass fibre, these products are less easy to recycle. We have done university work and we do know how to recycle these, they can be done. What we have to do is find markets for them and once we find markets for them it then starts becoming a more economic process. It is not that we cannot recycle anything, we can recycle it, it is the economics that are involved, that is the thing that has to be opened up. Markets have to be found and developed.

**Q22 Mr Drew:** You have already touched on the need for this detailed information on how the Directive can be implemented, according to the evidence you have given you say that you expect that virtually any time now, what do you mean by that? Has it been promised and not delivered or is there no definite date?

**Mr Franklin:** It should have been delivered back in October last year.

**Q23 Mr Drew:** You were given that clear assurance, were you?

**Mr Franklin:** There are four drafts from the Technical Adaption Committee on Waste, the people who have discussed this. The DTI and Defra go to this meeting and they will input what they think the suggestions may be but we anticipate this and very much want to see this clearly set down by the end of the year.

**Q24 Mr Drew:** What is the latest the publications of that can be delayed before you really start bringing into question the 2006 target? I know this is all risk analysis, but when does it start to seriously impede your ability to deliver the first of those targets?

**Mr Franklin:** It would have been highly desirable to have it six months ago. We know we have to get to 85%, it is really the method of calculation and demonstrating how we are going to do it. A suggestion from Germany is that we take a given number of say 70%, we do not try and track that because we will say, “70% metallic fraction is a given now we have to concentrate on the 15% of the other fractions”. We discussed this in the Accord meeting last week and we will probably set up the shedder trials to determine the metal content in the United Kingdom, we hope that it will be higher than 70, somewhere round 75%, so then we are looking at a 10% fraction. It is more the calculation rather than the recycling, we know we have to do the recycling, 3% rubber up to 9% plastic would get us there, rubber is probably an easier target than plastic, and there is the fluids. I think we can get there by conventional methods but we would like to see the calculation of how we get there.

**Q25 Mr Drew:** How much of a problem is it that you are dealing with three different bodies, you are dealing with DTI, Defra and the Environment Agency, is there a commonality of purpose from those three organisations? Clearly they are implementing the EU Directive, does this cause you any particular problem or is there a uniformity of voice except that they are not yet quite there in terms of publishing the document?

**Mr Everitt:** First of all we will have to take a step back and say we have a complex Directive which because of its scope involves not just a number of departments but a number of agencies beyond the Environment Agency, DVLA and others as well as the devolved administrations. It would be misleading to say that has all been smooth and marvellous, clearly there have been difficulties along the way. I would like to think that many of those difficulties are born of the fact that this is one of the first pieces of producer responsibility legislation that has had to be dealt with and therefore there is no proven method that you can go back to and say, “this is the way that we do it” and it is a nice easy flow. Everyone from the industry side and from the various Government agencies and the Commission are having to come to terms with issues and deal with issues they had not anticipated they would have to deal with. That is always going to be a confused and difficult scenario. Clearly timing and ensuring that things are done in a helpful order so that topics can be dealt with consequently, if that is the right phrase,

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is difficult and there have been hitches all of the way along, some of those are due to the fact that decisions have not been made at Commission level. Everyone is having to move along to meet a timetable, however key bits of information are always missing so you can only go so far, you find out something and you have to go back. It has been a difficult process, I do not think it was from a want and a will, if you like, just the fact that the complexity and the novelty of this type of legislation.

**Q26 Paddy Tipping:** Tell us about the process, do you all sit round the table and chat about this?

**Mr Everitt:** No, we do not shout.

**Q27 Paddy Tipping:** I said chat, not shout.

**Mr Everitt:** Sorry. There have been a number of fora that have been in operation for a number of years, both as a formal part of the consultation process and implementation process but also, as Steve mentioned, the Accord Group which brings together all of the industry players along with the various departments and agencies, and that has been in existence since the early 1990s, so there has been a lot of sharing of information and a lot of close working. I think with those partners and participants there has always been a degree of anxiety about various issues. In the early days before the legislation and before there was a full understanding of all of the implications of the legislation the working relationship was that bit closer, as the legislation has moved forward and the commercial implications have become clear clearly tensions begin to rise between the various industry partners and as a consequence between them and government departments.

**Q28 Paddy Tipping:** You mentioned Germany earlier on, most of these cars are now standard across Europe, there is no difference in the vehicles, are people doing same thing in Germany as in the United Kingdom or in France? Are you all adopting a similar approach or are there differences amongst partners?

**Mr Everitt:** I think are. One of the lessons, if you like, from environmental legislation is it does give individual Member States the opportunity to implement with a degree of licence and as a consequence we have sought, and I think that the United Kingdom has taken on board, the need to try and ensure that there is a level playing field. If the industry in the United Kingdom is faced with different implementation or more stringent implementation than somewhere else that creates a problem. Similarly we are hopeful that other countries are pushing for them to adopt as similar an approach as possible because clearly it is the same product. That is not always the case. I think going back to some of the delays that have crept into the system, they are because everybody has taken the cautious approach, a number of Member States have pushed forward and implemented and they now find themselves in infringement proceedings from the Commission.

**Q29 Paddy Tipping:** Who?

**Mr Everitt:** Germany has legislation and as a consequence the Commission has taken exception to a number of items within it and it is now subject to infringement. Member States have taken the view and the United Kingdom has that it is better to do it right, even if that means some delay, and I think from the vehicle manufacturing perspective we supported them in that in that we do not want them to rush into something and find it does not work. All of the discussions have featured very strongly the fridge scenario and in some cases the parallels are not necessarily as close as people would like to believe inasmuch as this is a product that has already been recycled to a very significant degree, there is an infrastructure out there, there is a group of people in vehicle manufacturers who have assigned and have been prepared to take up their responsibility, unlike in the fridge scenario, some of the concerns about fridges have built in some of the delay.

**Q30 Mr Mitchell:** You surprise me because the usual tendency in this country when it comes to matters European is to gold-plate, to demand a more heavy-handed implementation. If you are saying that has not occurred in this particular instance, I will ask you if are you saying that, it will be one in a row.

**Mr Everitt:** I would say as we stand at the moment we do not feel this is something that has been gold-plated. In the very beginning of the implementation process there were concerns about that and in fairness the Secretary of State for Trade and Industry Patricia Hewitt and the Prime Minister gave a very strong indication to the relevant Government departments that the aim was to implement the Directive in an appropriate manner with a light regulatory touch.

**Q31 Mr Mitchell:** Another try for New Labour! Were you consulted in the process of negotiating the Directive? What part did you play there?

**Mr Everitt:** I think we would say that some of the difficulties that all Member States have had to deal with are as a consequence of what is a difficult piece of legislation. I have to say that Steve and I have only been dealing with this since the beginning of 2000 so our involvement in the early stages of European discussions were limited, but my impression is there was not a great deal of weight given to industry's views in the Commission's deliberations on what would or would not be appropriate, and that was reflected in the fact that the Directive had to go to conciliation and in one of the rarest examples I can remember the European Parliament was seeking to make it less strict and a lighter regulatory touch and it is not often that the European Parliament takes that particular line. I think we would take the view that many of the problems we faced are because of a lack of engagement and a lack of consultation during the formative stages of this piece of legislation.

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**Q32 Paddy Tipping:** That is extremely helpful. Can I thank you both very much. That has got us off to a good start. If there are things when you get out of the door you think you should have told us can you drop us a note.

**Mr Everitt:** I will do, indeed. Similarly if issues come up during the course of your investigation that you would like clarification on we would be happy to answer.

**Paddy Tipping:** Thank you very much.

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**Memorandum submitted by the British Vehicle Salvage Federation (E3)**

The British Vehicle Salvage Federation is grateful for the invitation to comment on the preparations made for the implementation of the End of Life Vehicles Directive and its subsequent transposition into national law.

It is of considerable concern to the vehicle salvage companies, members of this Federation, who represent over 85% of the vehicle salvage business in the UK, that there have been prolonged delays in the preparation and introduction of the ELV Regulations 2003 and there is still a lack of clarity on their operation. The ELV Regulations are still not complete in that they do not transpose into UK law, all of the provisions of Directive 2000/53/EC of the European Parliament in many important respects, such as recycling targets and Authorised Treatment Facility (ATF) network covers.

As you are aware, the Directive should have been implemented in all EC Members States by 21 April 2002. The Directive was published in the Official Journal of the EC on 21 October 2000. Its draft provisions were known for some time beforehand and there were two years after its publication before its implementation date. We accept that it has been necessary to conduct detailed consultations with the industries which will be affected by the new legislation, and these have been prolonged with certain aspects still unresolved. However, the delay in implementing the legislation in the UK and the lack of clear guidance on its operation, has caused considerable indecisiveness and stalling of investment by many companies.

The BVSF fully supports the environmental aims of the ELVD and with other interested parties, has attended numerous meetings with the DTi, DEFRA, EA and DVLA to assist in its correct, smooth and sensible introduction. Regrettably however, after many months there is still a lack of clarity on certain aspects, instructions as to the requirements and the way in which to comply.

It appears to the BVSF that there is confusion and possibly disagreement between the various Government Departments involved, which has resulted in similar confusion for salvage companies as to what to do and how to comply with the new legislation. We are aware of the same developments taking place in Northern Ireland where, in our view, there has been total clarity on what is required and the way forward. We question why that position has not been possible here?

Whilst we appreciate that Government wishes to avoid a repetition of the Fridge fiasco and has extensively consulted as a result, it is our view that the delays, lack of clear advice and instructions, has prevented companies from moving forward on investment in appropriate premises, equipment and other facilities to meet the new requirements. This is likely to mean insufficient capacity to deal with ELVs according to the new legislation and therefore a worse situation than the fridge problem.

It is understood that one of the problems has been the lack of legal capacity within DEFRA to undertake the drafting work connected with their parts of the new legislation. We would level no criticism at the DEFRA officials with whom we have held discussions because they have been most helpful but clearly some strengthening of the legal capacity of that Department appears necessary.

We are also seriously concerned as to whether the Environment Agency will have sufficient resources to operate the new permitting requirements for ATFs and be able to police the system. We have no confidence in this respect from our discussions and would respectfully suggest this aspect be fully investigated and remedied otherwise it could well result in unlawful activities and lead to more pollution contrary to the environmental aims of the new legislation.

On related questions we are still awaiting advice from DEFRA/EA on the planned Hazardous Waste Regulations. These have been promised for some time. It is still not clear precisely when an ELV becomes hazardous. Similarly, we are still awaiting instructions regarding Planning Consents as there will be need for urgent decisions to be taken on premises to be developed and/or acquired to enable companies to meet the new requirements. The absence of advice and instructions to local authorities in this respect is essential if the new legislation is to work properly.

Finally we are anxiously awaiting Regulatory Guidance notes from DEFRA on ELV Permitting which are the subject of ongoing discussions between the Department and the Environment Agency. Now that the ELV Regulations have been passed by Parliament for implementation commencing 3 November 2003 and new permits for companies wishing to comply are to be completed by 1 February 2004, vehicle salvage companies and dismantlers require these notes as a matter of urgency. Enquiries are constantly being received from our members in this respect but we are unable to provide the required information until the final notes are issued by DEFRA.

It is hoped that these comments are helpful to the Select Committee. If so required, the BVSF would be pleased to provide oral evidence to the Committee on request.

*Alan Greenouff,*  
Chairman

*October 2003*

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*Witnesses: Mr Dick Smith, Managing Director, HBC Vehicle Services, Mr Geoffrey Bridges, Director, GW Bridges and Mr Alan Greenouff, Chairman, British Vehicle Salvage Federation, examined.*

**Q33 Paddy Tipping:** Now we turn to the British Vehicle Salvage Federation, Alan Greenouff who is the Chairman, Dick Smith who is the Managing Director of HBC Vehicle Services and Geoffrey Bridges, Director of GW Bridges. You have heard what we are about because you have been in the room so you know what we are shooting at. I already feel as though I am being shot at because I come from North Nottinghamshire and there has been a small firm who contacted me recently saying this Directive which is coming in, we cannot get any clarity about it, we want to invest, we need to change our working practices and we are in a mess. Is that a true perspective?

**Mr Greenouff:** I think that is fair comment.

**Q34 Paddy Tipping:** Would your other members say that?

**Mr Greenouff:** I think so, they are very anxiously waiting nuts and bolts, if you like, in terms of guidance and what to do next. We as a trade body in the same way as any other trade body have sent to our membership all of the details that have come out as and when they have been discussed, copies of the legislation, the guide notes which have just come out from Defra, which really do not help them very much, they just tell them things they already know. What they really want to know is, what do we do next? What is really meant by an impermeable surface? When is a vehicle ELV? How much oil do we take out of a vehicle, do we leave a cup full in, a spoon full in? There are all of these details which they really do not understand. Obviously they do now know that they have to act if they want to become permitted to handle ELVs from the beginning of February next year, they have had that detail but really the way forward for them is not clear and it has not been made clear by the Government departments.

**Q35 Paddy Tipping:** Do they need to be registered by February next year?

**Mr Greenouff:** Yes, the companies who currently have waste management licences, as you probably know, I am sorry if I am repeating something you are already aware of, automatically become permitted to handle ELVs if that is what they are doing at present but exempt companies will have to decide whether they wish to apply by 1 February and do so, otherwise they will not be permitted to handle ELVs in the future or handle and depollute because they have to meet the new requirements.

**Q36 Paddy Tipping:** That is not very far away.

**Mr Greenouff:** It is a very short time scale bearing in mind this has been going on—we entered the scene in mid 1998 but we have correspondence which started just before then—six years now and we are suddenly told towards the end of 2003 that you must do this by February 2004.

**Q37 Mr Mitchell:** This seems to me to be a method of procedure by a government department which has no idea of how business works. I found talking to friends in Grimsby there has been a problem about what to invest in, what do we get, what is necessary to deal with the situation. Would it be fair to say this is a fairly widespread anxiety and the Government has not provided clear guidance as to what kind of investment is going to be necessary to deal with it.

**Mr Greenouff:** The straight answer is yes, all companies are the same throughout the country. I have two colleagues with me, on my left Mr Smith is one who has not moved forward because he is not sure what the business is going to be like for the future and has all of the imponderables and the gentlemen on my right Mr Bridges' company has moved forward and invested heavily. He sees a business there for the future, I have two people with me but there are many more out there.

**Q38 Mr Mitchell:** Let me ask Mr Smith.

**Mr Smith:** I think it is not so much we do not know what to do, we have a pretty good idea what is required, there are a lot of people out there selling a lot of equipment. As a chap who runs a business and is asked to deal with the reality of the problem and the product my problem is that if I present to my Chairman the investment on this side of the balance sheet, that is what we need to do, this is what we need to buy and spend, how much we need to commit I have nothing on the right-hand side to balance that investment in terms of a return. I have many pressures from the Environment Agency to comply with this and comply with that. There are enormous costs involved in running one of our organisations. Alan said that we have not invested, we have invested huge amounts of time and effort in getting to where we are today, other companies have invested money and some were in that process prior to the ELV legislation being born and were using it as a part of the process to recycle vehicles parts. There has always been a recycle vehicle industry parts industry and in doing so they depolluted vehicles and parts. What we have here is not necessarily the depollution of those that are going to be recycled, it is the depollution of those that are going to be junked. We are not talking about where

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we have been, we have predominantly represented the insurance industry and the write-offs from the industry and there are probably 200,000 vehicles that need to be depolluted from that sector of the business. What we are now looking at is being faced with is two million vehicles, two million playing 200,000 is a completely different ball game. I have had manufacturers say to me, "you make a profit, Dick, you pay for it". I do not find that a particularly acceptable argument as to why I should invest, that I should use our profits if we do make profits, and they are pretty slim at the moment, to invest in a piece of legislation that is not of my making. It does not mean to say that we will not. I do not want to ramble, my problem is that I ramble, but from my point of view the origins of the legislation was that the polluter pays. I am having fingers stuck into me by Government, by the Environment Agency, by Defra by all of the agencies saying "you have to do this". Well as a businessman I do not have to do it, I can put my shutters down and say, "I will go and do something else". It is the bodies that are driving us towards that direction at the moment. I do not have to do it. I can change my business plan and I can say, "no, I am not going to get into that sector if there is no return in it". Going back to the polluter pays, well I am not the polluter, I did not make this thing. We sat and listened to a few words of the manufacturing industry, they made it and I think they should be doing what every self-respecting dog owner should do in the United Kingdom and that is pick up their own dirt. We heard there was not going to be much cost to it, maybe not by 2007 because our industries will have had the three-card trick played on them and we will be paying all of the capital cost of installing the plant and doing the job and getting it up off the ground. About three years ago the first meeting I attended I gained from that that somebody who had first grasp of the legislation felt that they were just going to write a set of rules about something that was already being done. This is a whole new business, it is a whole new job on vehicles that have never had it applied to them before, which is the two million vehicles. The 200,000 vehicles that the salvage industry represent have been depolluted and dealt with in an environmentally friendly way, there are sectors of our market that do not but we do.

**Q39 Paddy Tipping:** Let us ask Mr Bridges why he has invested.

**Mr Bridges:** The legislation has been around for some time now and we saw it as a business opportunity. There is no way you can realistically expect if there are 4,000 sites in the United Kingdom handling vehicles now that those 4,000 will be handling them in the future. Whatever volume each site that goes out of business or closes does not do any more we then are hoping by becoming more professional and upping our capacity we can take up the shortfall in those businesses, that is why we have expanded to the level that we have because it is law now and we are ready.

**Q40 Paddy Tipping:** How many businesses are going to cease operating?

**Mr Bridges:** I do not want to see anybody go out of business. I would like to be sitting here today representing an industry that is fully compliant but I am not. It is in their own hands, if they all want to comply they will all be in business.

**Q41 Paddy Tipping:** It is in everybody's hands but there is a public policy issue that if too many of them go out of business there is not anybody to do this job.

**Mr Bridges:** I personally disagree with that. At the moment we process and depollute to the Directive's standard as we see it in our interpretation, 18,000 vehicles a year, and we now have capacity for 125,000 vehicles. If you are saying two million vehicles, I was never that good at math but if you had 20 or 30 of us in the United Kingdom there is no problem.

**Q42 Paddy Tipping:** Okay. Tell us about fly-tipping? You heard previous evidence that there was not going to be a problem. I just simply do not believe this. I can see from the shake of your heads that you do not believe it. What is going to happen up to 2007 as you see it?

**Mr Greenouff:** To 2007 we see the situation as worsening, undoubtedly. The last owner is now responsible. The last owner does not want to pay, will not pay, they are men of straw very often, it is no use trying to pursue them, anything to avoid the costs involved in disposing of the vehicle is going to be the name of the game. The additional cost now must come into play because of the work that has to be done on a vehicle, so those minimal figures of say five pounds to get rid of it just do not figure, we are talking of considerably more.

**Q43 Paddy Tipping:** £50 or £60.

**Mr Greenouff:** Various figures have been bandied around. The easy way is in the dead of night to abandon your vehicle and try and hide its identity.

**Q44 Mr Mitchell:** Or report it stolen!

**Mr Bridges:** The majority of them are not insured so there is no point in reporting them stolen. The trouble is with own those abandoned vehicles we are talking about a majority of people who are not taxed or insured so any form of legislation is not going to have an effect on that part of it. We came up with figures and we would say that figure of 150,000 will probably double.

**Q45 Mr Mitchell:** It will be no use pursuing the last recorded owner?

**Mr Smith:** The last recorded owner of an end of life vehicle is probably—and I think there are two classes of individual—the 18 year old tearaway that drove it round for 50 miles and then threw it away, he might live in Hull, he may not live in Hull, you were portraying that you do have some there. I live in Essex and there are plenty our there in Basildon. It does not matter where you are in the nation somebody is doing something like that with them.

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Then there is the other end of the scale, a 57 year old man, that is how old I am, who is pretty strapped for cash and you are talking about these magical words in the legislation that there is a free take back system. Everybody knows that nothing is for free. You were enquiring earlier on about whether the consumer would be disadvantaged, the consumer is disadvantaged in every piece of producer legislation that will ever be invented I think. It goes back to where we should start, two million vehicles come on to the road every year and two million fall off that end of the table. What we should have done is put £100 charge as an environmental tax on that vehicle coming on to pay for that one going off, it would have been very, very simple, passed straight through, we would have put our hands up and invested a lot of money and said thank you very much and made a tenner on each car. Here we have a bureaucratic nightmare from three joined-up agencies and none of them can make a joined-up decision.

**Q46 Mr Mitchell:** Or include it in the road tax.

**Mr Smith:** Any form of Government structure to suck in the money and pump it back into the manufacturers and back to us, or whatever, would have far simpler than where we are going at the present time, and far clearer.

**Q47 Paddy Tipping:** I just want to clear that figure up, you said 340,000 cars per year at present, you think it will double to 680,000 or 700,000.

**Mr Greenouff:** That is a guesstimate. Let us say 500,000.

**Mr Bridges:** We deal with abandoned vehicles on a daily basis and if you go back five years to see the volumes we were dealing with then, when no one was charged, we were paying, there was still an abandoned vehicle problem when we were paying people for their cars. If you look at the way the situation has worsened, as soon as we start charging people significant amounts of money, getting into £40 or £50, it is going to escalate. I do not see how you can say it is not, it is going to double, if not more.

**Q48 Mr Drew:** Much of the evidence you have given us obviously reinforces what you have sent to us in your written evidence. There is just one thing I was intrigued by in your written evidence where you were talking about the regulations and the explanation regulations—and as we heard with our previous witnesses you are waiting to see what the details have to say—you refer in one sentence to “these have been promised for some time. It is still not clear precisely when an ELV becomes hazardous”. Can you explain what the real meaning of that is? Are we talking about some of the materials within the vehicles or all of the materials for some vehicles? How do you anticipate coping with this if there is not clear guidance out fairly soon? This is obviously how we move to fridge mountain II, is it not?

**Mr Greenouff:** I will start, it is very clear from what we have learned that a vehicle which has not been depolluted, in other words it contains all of its fluids, oils, et cetera, is going to be designated for the future or has already been, I believe, designated as

hazardous waste as a whole, the whole vehicle. If you depollute it in accordance with the requirements then it becomes waste. The problem is that we still do not know from when these things are triggered. We do not have a clear understanding as to when a vehicle, as I said earlier, becomes an ELV, when it is precisely that moment in time. Our own view is that it would be when it is taken somewhere and a certificate of destruction is provided to the person who presents it. If it is going to be in the hazardous waste legislation that a vehicle which has been abandoned and has vehicle fuels in it and is presented as hazardous waste then it presents immense problems for my colleagues here in being able to collect, transport and deal with because they have to comply with those hazardous waste regulations.

**Mr Bridges:** The registering of a certificate of destruction could be one point where it becomes an ELV but for the hazardous waste side of it, the storage of it has to be on impermeable surfaces, you cannot start any work on that vehicle until you have depolluted it. With the council contracts we may well collect a vehicle and store it for anything up to 28 days for the council. That vehicle will clear to us for disposal but may not be moved for another week or so. At the point we raise the CoD does that then mean this vehicle sat there held by a Government body is a nice car but then suddenly becomes the most toxic thing in the world and we have to move it and depollute it. There has to be some sort of sense as to when it is and I personally feel it should be at the point you wish to start dismantling that vehicle, because you are then taking it from its usage. Until you remove something from it it can still be used as a car. The moment you decide that will be either cubed for fragmentation or will be put into a system for parts disposal then it becomes hazardous waste because you are then removing it, you are breaking it down into its existence and then take it from there.

**Q49 Mr Drew:** There is an issue there, I do not know whether this will cause you any fears, when ELV really comes in and starts hitting the degree to which the manufacturers will change the design of their product much more dramatically that you either get the instant recyclable vehicle or you get the vehicle that you will drive for much longer and you make it worth people's while to hang on to that, are you in discussion with the motor trade on that basis or do you just have to pick up the rear end and you just have to hope there is a business there in 20 years' time, maybe a different business, I do not know.

**Mr Smith:** I think it is the latter really.

**Mr Greenouff:** We have had to cope with so much we have not focused on discussions with the vehicle manufacturers other than to say we need dismantling information and they are duty bound under the legislation to provide the information so that you can do the reverse process and we have discussed with them the way in which the new regulations are going to be applied, you have heard earlier about the “Own Marque” route. We have not got into discussions in that type of detail that you mentioned.



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**Q50 Mr Drew:** Do you think that you should get into those discussions? Do you think the Government has a role to encourage that or is this purely down to business itself?

**Mr Greenouff:** The businesses are there to deal with what is around, that is what these gentlemen do, they handle vehicles that are presented to them in the way in which the legislation requires.

**Q51 Mr Mitchell:** I am just interested in the confusion or if it is confusion the relationship between government departments, it seems to me unless you have one head department dealing with everything you are going to get difficulties and friction and conflict, what differences do you see in your approach to the issue between the departments and agencies that are involved in delivering this Directive?

**Mr Greenouff:** I must say that the DTI have been the most helpful and have taken a lead in the past and have done all within their power to keep us fully informed. We have had very good discussions with them. That also follows with Defra. Having sat round the table with Defra and the Environment Agency and seen the disagreements between themselves on certain aspects of what should be produced in terms of guide notes, what decisions should be taken there is undoubtedly confusion within Government departments and then this slows up the whole process and has slowed up the whole process of legislation, added to which, if I may throw this in for good measure, the DTI and others are very anxious that there should be many authorised treatment facility companies for the future. Here we have on the other hand the Department for Transport, if I can put them into the frame, introducing legislation, anti-crime, which is very commendable but which has had a serious effect on the businesses of the salvage companies.

**Q52 Mr Mitchell:** In what way?

**Mr Greenouff:** Are you familiar with the salvage code? Salvage is categorised into four categories, A, B, C and D: A is scrap; B is spare parts scrap; C is seriously damaged but repairable and then you have D, which is those which are stolen, recovered, less damaged, and so on. That was put in to operation through the insurance industry some years ago and we fully support it and all of our members comply with it. The effect of the VIC scheme introduced by the Department of Transport in recent times, April last year, has been to reduce the sales of category C, which is a very important income stream, our estimate is 33% currently. This is having an effect to the extent that many companies are saying, "we are sitting on some very expensive land and property why do we not just sell it for development and move out of the business". We come back to your first question about the effect of the Directive and investment. Companies are not going to move forward when they see these things happening to their business. What does the future hold? We have four agencies and departments in the frame creating confusion and it is hardly joined-up government, if I may say so.

**Mr Smith:** There is another area that is allied to that, the key to doing this job is going to be to have sufficient operators by numbers to do the job and that they are not too far apart. Because it is a nationwide problem commonsense might say they should be ten or fifteen miles apart to move the uninsured, immobile objects miraculously with this free take back scheme. I am probably running the second largest salvage operation in the United Kingdom, if you follow through the logic of the way the legislation is laid at the present time, the statement is there are two categories of operator, there is the fully licensed operator, that is me. I have environmental licences on all of the sites that I have nationwide and I fought hard and struggled with great difficulty to get those licences. I have those licences courtesy of an even greater battle, that was planning permission. When a salvage yards applies for planning permission all of the banners of all the people in all of the areas go up because they do really think you are only one leg up from a pike. Through the Salvage Federation we have taken the salvage industry a long way away from that actual image but it is still the perception of anybody who lives near a salvage yard. We go to great lengths to hide them but I look at everybody who drives as a potential customer anyway. From the point of view of having obtained my planning permission, and it is the first prerogative of obtaining a waste management licence, do not forget to include your planning permission. If you have grandfather rights, if you have a permitted use certificate it is no good, you have to have planning permission. We sit here with two categories, they say licenced sites so I can fairly get this light touch job going through the system because I am licensed I can apply to become an ATF and that is probably where I will go. I have to get my application in by February and I might get an easy ride. The guy who is exempt must have a full waste licence to apply to become an ATF. By making that link you are saying to him by February next year he will have to have full planning permission for his currently exempt site so that he can then make the application before February for the waste management licence. That is totally and utterly impractical and impossible. It took me 18 months and a trip to the House of Lords to get planning permission for my site.

**Q53 Mr Mitchell:** For a judicial decision?

**Mr Smith:** A judicial decision to get the planning permission for my site in Essex. That took 18 months, £1.5 million of public money and £100,000 of our money. If anyone thinks an exempt site is going to get planning permission to enable him to apply for his waste management by February they best show me how they can do it.

**Q54 Mr Mitchell:** Has this been put to government departments?

**Mr Smith:** It is the lack of joined-up government. What we have is one set of rules being made here, one set being made there and not dove-tailing them together. As far as I am concerned we can sit here until the cows come home arguing where we are and

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who is going to pay and whether we can make money or cannot make money but there are not going to be sufficient people in businesses in this nation licensed and able to do it. All we ever hear is we do not have resources for this, we do not have the resources in the police, the fire brigade, the ambulance service, we do not have the resources in the EA to police it. I do maintain there is a third body, you have the licensed, you have the exempt and you have the big dog brigade in our industry.

**Q55 Mr Mitchell:** Who are they?

**Mr Smith:** They are the people who the Environment Agency do not get through the gate of. We are crying for a level playing field, as soon as you become licensed or you become exempt you are on the Environment Agency's database—I am probably building myself up for some aggravation here—and you are plagued something rotten for trying to do the job properly. If you buy a big dog, and even more so after February if you buy two big dogs you will never have a problem and you will still deal with the vehicles. The vehicle manufacturers will not want to deal with them but some way or other it will filter through, because it always will. My current philosophy is I am looking for the number of Battersea Dogs Home.

**Q56 Paddy Tipping:** My experience was that people bought big dogs to keep politicians out. Let me wind this up by asking three sharp points, first of all you, Mr Greenouff, were quite critical, you praised the DTI but said that you got the EA and Defra in the same room giving conflicting advice, why is that? Do they not have the skills? Do they not know the field? What is the problem?

**Mr Greenouff:** I think to be fair they have had all of the skills put in front of them, they have sought the views of industry and industry have sat round the table and provided those views, and detailed views. I am no expert, that is why I have these two gentlemen on my left and right, I do not know the business that well but the nuts and bolt have been

explained to them yet we have had no detailed decisions or detailed information provided as to what standards they require. The Environment Agency are then going to enforce these requirements over the coming months and they have to issue instructions to their agencies throughout the country and unless we know what these requirements are and those instructions are almost down to precise detail—

**Q57 Paddy Tipping:** What is the problem with Defra and the Environment Agency?

**Mr Greenouff:** I think there is just general disagreement and I cannot tell you the answer to that other than harsh looks across the table and “sorry, we do not have the answers at the moment, we are still discussing behind the scenes”.

**Q58 Paddy Tipping:** When did your organisation first get involved in discussions on the End of Life Vehicle Directive?

**Mr Greenouff:** We were established in 1998.

**Q59 Paddy Tipping:** You have been talking about this for five years?

**Mr Greenouff:** As soon as we established the Federation we started to discuss this Directive. May I also add we are very much in support of the legislation, we feel that it is long overdue but unless we have the proper instructions and way it should be operated it is proving very troublesome.

**Q60 Paddy Tipping:** You have been discussions for five years, it is implemented in February, three months away and some of your members are saying, “are we going to go with this or not, what do we do?”

**Mr Greenouff:** Yes.

**Q61 Paddy Tipping:** That is a good note to leave it on. Can you reflect on what you have told us this afternoon and if there are things that you would like to can you please write to us. Thank you very much for coming.

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**Monday 17 November 2003**

Members present:

Paddy Tipping, in the Chair

Mr Austin Mitchell  
Diana Organ  
Joan Ruddock

David Taylor  
Mr Bill Wiggin

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**Memorandum submitted by the British Retail Consortium (E17)**

**WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE) DIRECTIVE**

**1. EXECUTIVE SUMMARY**

1.1 The BRC welcomes the opportunity to provide evidence to the committee on the role played by Government in the stages of negotiation, implementation and capacity to deal with the WEEE Directive. Our active involvement throughout the WEEE negotiations and now UK implementation allows the BRC to comment with some authority on the role played by Government and will hopefully provide useful evidence to the Committee.

1.2 Our experiences in dealing with Government departments have been hindered by the lack of any clear division of responsibilities between the DTI and Defra. This confusion has led to unclear channels of communication for stakeholders and often misleading guidance in preparation for implementation.

1.3 In our evidence we have highlighted the apparent lack of industry experience amongst officials and would recommend Government departments to draw on the advice of a range of experts from outside Government at the earliest opportunity. Earlier consultation with industry experts would have avoided some of the potential pitfalls in finding appropriate WEEE implementation models.

1.4 Finally, the lack of a coherent waste strategy is underlined by the lack of benchmarking data upon which the Government is basing the UK regulatory framework. Defra/DTI have only very recently completed a survey of Local Authority Civic Amenity sites in order to understand what provision is already being made for WEEE collection and thus what gaps exist to achieve collection targets in the UK now and in the future. This data should have formed the basis of Government's negotiations on the WEEE Directive, allowing for a more constructive round of consultation based on real data rather than second-guessing.

**2. THE ROLE PLAYED BY GOVERNMENT IN NEGOTIATING THE WEEE DIRECTIVE**

2.1 Prior to negotiating the WEEE Directive in Europe the UK Government failed to define a clear set of agreed objectives as to what it was looking to achieve. Ideally these objectives should have been transparent to key stakeholders, this would have enabled expert advice to assist at the most appropriate times during the rounds of negotiation. The key objectives and direction of the Directive had previously been discussed for over ten years and it should have been at this stage that Government influenced and provided expert opinion to assist in generating a more appropriate road map towards implementation. To have more effectively contributed towards the shape and overlying objectives of the Directive we believe would have resulted in a final text which would have been more workable in practice. This would in turn have given confidence to stakeholders that views have been listened to at an early stage of negotiations and in doing so improve the transition towards UK implementation.

2.2 The BRC recommends that Government engage with stakeholders at the earliest opportunity in order to resolve issues that are likely to resurface at a later stage. This would provide an intelligence check to some of the key issues discussed during negotiations and place the government on the front-foot in setting the agenda and tone of the discussions.

2.3 Defra recently concluded a pilot project in Bristol for the collection of batteries, a partnership between retail and local authority. This twelve-month trial raised more questions than answers but was a project supported by Defra to improve understanding of the practicalities of collecting batteries for recycling and to provide a case study to inform any future negotiations during the forthcoming Batteries Directive. We recommend this model as a sense check to aid understanding of the practicalities ahead of regulation, forming an integral part of the regulatory impact assessment.

### 3. PREPARATIONS MADE BY GOVERNMENT FOR THE IMPLEMENTATION OF THE WEEE DIRECTIVE

3.1 Government preparations have been hindered by the uncertainty in division of responsibilities between Defra and DTI. Both departments have struggled to work together in order to consult openly with stakeholders in resolving some of the key issues. This has resulted in disjointed policy decisions that lead to further confusion in understanding Government's objectives and the parameters for stakeholders to strategically plan ahead.

3.2 Preparations by Government for the implementation of the WEEE Directive have primarily focused on a number of ad-hoc working groups that involved local authorities, reprocessors and retailers. The BRC met with both DTI and DEFRA officials as a retail group and then jointly with local authorities to discuss WEEE collection mechanisms. Disappointingly, the first Government consultation document failed to recognise these discussions and instead drew stakeholders back to a position of defending well documented principles with little scope for progressing previous discussions.

3.3 The working groups lacked a clear set of objectives and as a result missed the opportunity to inform Government policy ahead of the consultation period. This only satisfied the need to adhere to procedural steps in consulting with stakeholders and allowed Government to show a degree of willingness in gathering external views.

3.4 Both Defra and DTI lack the practical experience to help shape implementation issues and should be encouraged at the earliest opportunity to draw on advice from experts outside of Government.

3.5 In preparing for the implementation of the WEEE Directive the Government would be expected to possess an understanding of existing levels of activity relating to WEEE collection and reprocessing. With the second consultation expected in less than a month the Government still does not have a clear picture of current WEEE collection levels and the amount of segregation taking place at civic amenity sites.

3.6 In Paragraph 2.3 the Bristol pilot project was highlighted to show the value of carrying out voluntary initiatives ahead of regulation. Throughout the year Defra have administered significant funding to local authorities in support of facilities to collect and segregate WEEE for refurbishment/dismantling. There has been no evidence to suggest collaboration of data or Government developing policy against any of the outputs which suggests the funding has been distributed in a piecemeal manner and administered without prior consideration of any feed-back mechanism.

### 4. CAPACITY OF DEFRA TO DEAL WITH THE WEEE DIRECTIVE

4.1 The DTI have been more forthcoming than Defra in taking the lead in the implementation of the WEEE Directive. They have provided the focal point to field industry concerns and a lone figure in representing Government views at external events and in media coverage. The secondary role played by Defra has installed strong concerns over the department's capacity to implement the WEEE Directive, as from a stakeholder viewpoint their involvement to date has been limited.

4.2 During the implementation of the Ozone Depleting Substances (ODS) Regulations and now WEEE Directive a number of retailer members carried out store visits for Defra officials to assist their understanding on some key issues. Both parties found this an extremely beneficial exercise although we were disappointed to see a rolling turnover of Defra staff that stifled continuity in our relationship and policy decision-making. The BRC would question the levels of industry understanding amongst Defra staff in the handling of implementation issues that will present a significant barrier during the transposition of the WEEE Directive

October 2003

*Witnesses: Mr James McKechnie, Recycling Manager, J Sainsbury plc, and Mr Nigel Smith, CSR Policy Director, BRC, British Retail Consortium, examined.*

**Q62 Chairman:** I am delighted to welcome James McKechnie, who is the Recycling Manager of J Sainsbury plc, and Nigel Smith, from the BRC, to the meeting today. We want to talk with you about particularly the WEEE Directive and how it affects your members. Just at the start maybe it would be helpful if you could tell us something about your members, there are some big players, like Sainsbury, and some smaller players as well?

**Mr Smith:** The BRC represents 95% of retail across the UK. A fairly strange equation, I guess, to come to that figure, but 95%. We have probably two or three larger retailers, like Morrisons, that are not part of the BRC, but overall we have a very large coverage. We have what we call a Section One

membership, and that would be made up of close to 100 retailers, probably the bigger retailers, the Sainsbury's, the Tesco's, Next, Pier, and so on. Also we have a Section Two membership, which is made up of trade associations<sup>1</sup>. Within that membership,

<sup>1</sup> The British Retail Consortium is the lead trade association of UK retailing. BRC members account for over 90% of UK retail sales, selling a wide selection of products through centre of town, out of town, rural and virtual stores. Reflecting the diversity of modern retailing, BRC members include the large multiples and department stores, charity shops and small and medium sized independent retailers. There are over 190,000 VAT-registered retail businesses in the UK operating in more than 322,000 retail outlets. The retail industry employs nearly three million people and accounts for almost 11% of the total UK workforce.

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**17 November 2003 Mr James McKechnie and Mr Nigel Smith**

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for example, you would have RETRA, who are representatives of the Radio Electrical and Television Retailers Association, and with them they would bring 400 or 500 of their members, which are very much the one man in his own TV shop. We have the British Hardware Federation as well, which again brings in thousands of very small independents to that membership. If you look at the totality then probably 300,000 or 400,000 retailers would be the make-up of the BRC, and so very wide-reaching. Whatever we do we have to be mindful of not just the larger players but the very small retailers as well, which is where WEEE is going to have a very big impact upon them.

**Q63 Mr Wiggin:** Exactly how will the WEEE Directive operate, how will businesses and private householders dispose of their waste electrical and electronic equipment?

**Mr Smith:** I guess, from a very basic viewpoint, the way that the legislation stands at the moment, interpreting the Directive, there will be some collection point, whether that would be the retail premises, a central local authority collection point, a retail park, that point would be where the customer would take back their WEEE. From that point it would be distributed to a central, very large collection facility, where possibly the manufacturer would be responsible for the disposal of that electrical appliance, then being taken off for reprocessing, and so on. You have the interface there with the retailer, local authority site and then for onward disposal.

**Q64 Mr Wiggin:** What about people who are not buying something new, people who are disposing of their old electronic or electrical equipment but are not replacing it?

**Mr Smith:** The take-back now is like for like, but if you do have the central collection point, say, a local authority civic amenity site, there will be a facility there to take back any WEEE. There will not be a mechanism for saying, "Well, if you've not bought a new one recently you can't bring back your old toaster." That will be very open-ended.

**Mr McKechnie:** Businesses are obligated also for the electrical items that fall under the Directive. The PCs that we use, for instance, just as easily could be found in a household, so we will be obligated to ensure that they are recycled afterwards.

**Q65 Mr Wiggin:** Five years after the Directive comes into force the responsibility for collecting and disposing of WEEE passes to the producers. What arrangements have been made between you and the producers in relation to providing such a service?

**Mr Smith:** I would say, probably up until this point, until it is a bit clearer in guidance from DTI and Defra, the relationship for what we have been looking at really is purely the collection points. Probably doing more work with the local authorities to identify where the gap is at the moment for the collection of WEEE, and so on, working with producers, a number of retailers are in brand manufactures as well, so that will impact them. They

are very much looking at speaking possibly to compliance schemes, speaking to the manufacturers' equivalent, I guess, of the BRC as well. To this point, because we have not been too clear probably of what the regulation would look like, it has been quite hard to hold those discussions with the manufacturers.

**Mr McKechnie:** Also we are obligated if we import directly an electrical item in the future, such that there is not a producer behind us within this country.

**Q66 Mr Wiggin:** I am not quite clear about one thing. You talked about collection points and then we have got take-back going on as well. Presumably, providing take-back adds cost to your business, so how are you going to run this parallel with the council-operated sites? You will just dump it on there, will you not? There seem to be two different stories running parallel here. I am curious about the cost element as well?

**Mr Smith:** I think that would come from the Directive, whereby it does say there will be a take-back obligation for retailers in the store, or if Member States were to come up with an alternative system, i.e. through civic amenity sites, for example. I guess at the moment it is not clear it has to go back through retail premises. We are and we have been looking for a flexible approach, because some retailers' business models may make it easy for them to take back in store, whereas for Sainsbury's that may not be a good thing to do, mixing with food and so on, so we are looking for a very flexible approach for this, possibly through in-store take-back, retail take-back. At the moment, you would look at white appliances being picked up on delivery, for example, that is happening at the moment, and that will continue, take-back of mobile 'phones also operating at store level. What we do will have to be complemented by local authority collection points as well, or a central collection point.

**Q67 Mr Mitchell:** It is exciting language is it not? Here we are, talking about WEEE disposal being open-ended, which I have always found it to be, when it comes to nappies. Will you take it back with an extra charge? Are you going to put up the prices of what you are flogging to cover the cost of taking back the old equipment that is traded in, as it were?

**Mr Smith:** James hopefully can answer this as well. In some circumstances it will be just not workable to take back in store, through space, through health and safety issues, and so on, there just will not be the systems in place for in store, if you look at a very small retailer, for example.

**Q68 Mr Mitchell:** What about big things like fridges?

**Mr Smith:** On delivery, so if you are dropping off a new unit to someone, a doorstep, for example, you can take back the old one, because the logistics are there, there will be space to take it back. I think the in-store situation is very different from that and there will be quite severe space issues. You can look at the food retailers as well taking back old electrical

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items, you do not really know in what condition they are going to be coming back. It is going to be very difficult to turn them away.

**Q69 Mr Mitchell:** You do not know in what condition the fridges are going to be coming back?

**Mr McKechnie:** We have particular concerns, being food retailers. Dixons carried out an experiment and they had some very grubby microwaves brought back. Cassette recorders can provide a habitat sometimes for cockroaches, being nice, warm, dark spaces, and we sell fresh food. There is that side of things which perhaps a non-food retailer may not be so concerned about. Also we are concerned that, with shoppers tending to shop with us more regularly than, say, they might be going into town to buy an electrical item, how could we say "No"? It is meant to be like item exchange upon point of sale, but if we did not sell that how could we say "No" to them? It is odd. In addition, currently we experience some quite severe problems on a number of our sites with fly-tipping adjacent to the recycling banks. Were it to be known that "You've finished with your old PC, you can drop it off at Sainsbury's and somebody will take care of it," this is why we are lobbying to say, "Please, relative to our sales, can we part-fund local authority-based take-back and build on an infrastructure that is fast being developed?" There is more and more recycling of packaging becoming available to consumers. Could that be built on such that maybe those kerbside collection boxes also could be the means of collecting the small electrical items of a given weight and volume, the kettles, the electric toothbrushes, and so on? At the civic amenity sites, where you might be dropping off your garden waste, you could drop off your PC also, and so on. Then most authorities will offer, sometimes twice a year, a free collection of something like a three-piece suite, a sofa. In addition, could that also be the means of collecting some of the electricals? These three strands, that consumers are getting used to already, could be supplemented with an input from ourselves at the front end, as retailers, and behind us the producers. Not every retailer would choose to go down that route, some of them would be better at policing their counters, where they may prefer to take back, but basically "Please can we have that option?"

**Q70 Mr Mitchell:** I can see your problem, and I think it is right to make that kind of distinction. We saw in Denmark municipal sites where people could bring in electrical goods and if they liked something else that was there they could take that, a kind of exchange system. I came away with several books, unfortunately in Danish. While we could have that, just pursuing the analogy with the fridges a bit further, there was a profitable use for fridges, because, though the DTI did not know it and stupidly allowed the Europeans to close it down, we were exporting about £10 million worth of old fridges to Africa. I suppose the market in pop-up toasters in tropical Africa would not be quite the same, but are there alternative uses to which this kind of stuff can be put?

**Mr Smith:** We believe there are. Faced with take-back ourselves, the pressure on us would be to get it through and out of the system as quickly as possible and out to the recycler. We believe that were it to be local authority-based then there is an opportunity to combine that with, say, social groups such as Remploy and Create. Then you have the stuff which is brought in on a local basis, viewed by an electrician perhaps and it goes out to the needy in the community. You have that top tier, as it were, of reuse bolted on top of recycling. There is another point I would like to make along those lines. We have over 3,000 local authority recycling banks on our sites at 334 locations, and it is apparent to us that very often local authorities, in operating on a single authority basis, are not gaining economies of scale. If this route is to be pursued whereby electrical collections are local authority-based then we are not quite sure of the mechanics of this, but can contracts be sought, say, ideally on a regional basis and may the best waste company get that contract, be the means behind which it is collected and then transferred to the recycler?

**Q71 Mr Mitchell:** Are you inclined, on occasion, to do that?

**Mr Smith:** It would seem to us the most sensible route.

**Q72 Mr Mitchell:** Did I hear you say that Sainsbury's actually import a lot of this stuff, because most of these electrical things are imported, are they not?

**Mr McKechnie:** We are starting to. This Directive is very similar to the Packing Directive, in that there are many items we have on our shelves from abroad. Where we are specifically obligated, where we pick up an additional obligation, is if we have gone out and sourced it directly ourselves to the Far East, as we are starting to do more and more, we are selling more non-food stock.

**Q73 Mr Mitchell:** If, like so much else, they come from China, it is going to be difficult to enforce, the importer will have to enforce the manufacturers' obligations, effectively?

**Mr McKechnie:** If we import it directly ourselves, we pick up the full levy as it were. We count as the producer and will be entirely responsible for the recycling of that item.

**Q74 Mr Mitchell:** The Manchester Chamber of Commerce says it is going to be complex and potentially very damaging to manufacturers and importers. Is it going to be the same to your members, to retailers?

**Mr Smith:** Yes. We will have to see the way that the second consultation goes, which is out at the end of this month, but there still could be the threat of a mandatory in-store take-back. They will have to develop new systems to take that back. It is not normal practice at the moment, so, like I said before, there will be serious space issues, for example, health and safety issues, and so on, very big implications for the smaller retailer as well, again just through the

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lack of space. It is hard to estimate, I guess, what potentially the cost would be for that because it is setting up a whole new system for collection. For the retail industry that could be £100 million, £200 million, for example, purely through having to set up these new systems. At the same time, once you collect this, a lot of it will not be very valuable WEEE, someone has got to come and collect it for you, and again there are going to be onward transportation costs involved in this which will be footed by the retailer.

**Q75 Mr Mitchell:** That is going to be more difficult for the small retailer than for the big ones?

**Mr Smith:** It will be very, very difficult. You have the problem already, I think, where not many of them are aware of this. We speak to our trade association bodies and even they find it very hard to get the message out amongst their retailers, because they are trying to survive from day to day and this is a year, two years away. There are going to be big problems.

**Mr McKechnie:** Also there is the environmental impact, that if this model were taken to its extreme and every electricals retailer were faced with take-back, then somehow each electricals retailer is faced with trying to get the kit back to a given point and all those waste electrical miles clocked up. Whereas a local authority-based set-up would be a good thing, it is collected locally, it is bulked-up locally and then shipped out. Also the means of data trapping. We are still struggling to calculate accurately how much packaging we are dealing with in the UK and we are faced with national recycling targets. If this were handled by contractors on an authority basis, where they can trap the stuff as it comes in, a kettle goes on a scale, press a button, that is it, you have got data capture at source.

**Q76 Mr Mitchell:** The crucial point is going to be surely that the customer is not going to have to pay, because otherwise we are going to get another epidemic of fly-tipping. Seasonal change in the countryside, as the fridges give way to the toasters and toasters give way to the televisions, you can recognise different seasons in life's rich cycle by what is being dumped?

**Mr Smith:** I think you would have to question whether customers would change their current habit of chucking a hair-dryer in the bin, which I think probably will continue. You are looking at putting in place these very expensive systems, but how much stuff actually is going to be collected back, because the larger stuff is being collected already, so we are talking about the smaller items, which probably are not of very high value.

**Mr McKechnie:** It is the law that they cannot be challenged to bring back a kettle. Again, if we were faced with take-up, we would not want customers suddenly to have the prices go up and then that could be part of the difference for us, and then other retailers, even if we were trying to defend ourselves by saying "Well, it's to pay for take-back."

**Mr Smith:** We always get "Well, this is happening in mainland Europe and has been for quite some time." I think the problem we have is that, to set up systems

for taking back, you are not sure if customers are going to do it, will they do it in the UK because they do it in Germany? You still have to be prepared to take back what could be sizeable objects, and so on, so you have to have the systems in place but not really knowing what the customers are going to do. As I said, I think they will continue to throw it in the bin.

**Q77 Joan Ruddock:** I want to ask about the transportation, because it occurred to me as you were speaking that this could be a huge item. It seems to me, from what you have said, that the smaller retailers (a) are not going to want to encourage people to bring back anything, and (b) if they did there would be this major transportation question. When it comes to local authorities collecting, that would make sense vis-à-vis the small guys, but perhaps not so much with the big companies. I would like to know what kind of comparison there would be between the amounts that you could expect to collect, as a big company, with new sales of products, and people could be encouraged because education will encourage people to bring it back, then what transportation costs might be involved for you vis-à-vis the local authority? You have some cases that might seem to be more effective and efficient if it were going back to the retailer where those retailers were very big companies. I wonder if any work has been done on comparisons between those two potential systems?

**Mr McKechnie:** We have done a certain amount of work in terms of internal costings, and considerably more than we anticipated, basically. It is not just the logistics, it is the space in store, it is the training. On paper, we would be a waste transfer site and need the certification and training, etc., etc., and so on. It seems to us cheaper, apparently that it is cheaper, to have it collected from fewer places.

**Q78 Joan Ruddock:** Objectively cheaper, not just cheaper for you?

**Mr McKechnie:** Trying to be objective about it, yes.

**Q79 Chairman:** In the slightly longer term, the Directive should change manufacturers' behaviour, because the equipment that would be produced should be designed better and easier to recycle. Is there any evidence that kind of conceptual thinking is happening?

**Mr McKechnie:** We have seen some encouraging signs. I was at a presentation where an example from Sony was demonstrated, whereby a Walkman, not available on the market yet, but sort of little screws to hold it together, had a plastic casing whereby upon being heated the casing burst open, you were able to remove the innards and then that could be recycled. It is starting; it is not universal but it is starting.

**Q80 Chairman:** Do you think this is an area we need to focus on more?

**Mr McKechnie:** I am not a representative of manufacturers, but yes.

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**Q81 David Taylor:** Can we look at the capacity of local authorities to fulfil their obligations when the WEEE is implemented. Manchester Chamber of Commerce, again, have submitted evidence to us that they fear, and we touched on it earlier, Chairman, a version of the fridge mountains reappearing, because the regulations are rather hazy as to who should organise and pay for the collections, of WEEE particularly, from private households. Traditionally, local authorities have responsibilities for collection services and amenity sites, as we know. The Environmental Services Association, whose members are often the front-line agent of local authorities in modern-day collection, say that it is unclear as to where the cost and responsibility should fall. Do you feel, as retailers, this poses particular difficulties for you and for us in a general sense?

**Mr McKechnie:** We have been in discussion with local authorities concerning this. They are not obligated specifically by the Directive and yet, those that we have spoken to, the general view is that, while they regard themselves as the professionals in collecting this sort of thing locally, whereas we are the retailers, they are interested in doing it but look for funding towards doing that. That is where we recognise that we have an obligation, as retailers, and distributors, as we are called, under the Directive. Where it would suit a local authority is being faced with mandatory recycling targets by 2005 and here is a new stream which could be used to add towards their tonnage diverted from landfill, which, if a contractor is working on their behalf locally and is trapping that stuff and weighing it, can count towards the local authority targets.

**Mr Smith:** I think, until really we have a nationwide gap analysis of how many civic amenity sites we have, how many are collecting WEEE at the moment, how many have the capacity to expand to collect WEEE and how many say, "No way, we just can't do it because it's such a small site," until we have that kind of data then it is very difficult. I know, for example, London Remade are doing a study at the moment to develop a WEEE strategy for London, and again that is looking at the civic amenity sites, who can collect WEEE and who cannot. I think that is where we find ourselves in an awkward position, that if we were to fund local authorities, if I say now we will fund every local authority, that would go into millions again. I think some retailers probably would prefer to take back in store. If we know that 250 to 300 local authorities are collecting WEEE already, great. How do we build upon that, what sites need financial support from retailers, will that be 150, 200 sites, so we know where to put our efforts? At the moment that study is not available. I know that Defra/DTI have commissioned one, and hopefully that will be out with a second consultation so we know where these gaps are in the infrastructure.

**Q82 David Taylor:** BRC are resigned, and indeed prepared, for some contribution towards the costs that will be associated with these new services, or these new sites, are they?

**Mr Smith:** Not really to write a blank cheque, and this has been one of the problems.

**Q83 David Taylor:** I did not say that. I said to make a contribution towards the extra costs that will arise?

**Mr Smith:** As an alternative to in-store take-back, then yes.

**Q84 David Taylor:** If this really is evidence of gaps in the regulations, are there other gaps that, as a group, you feel exist and should be bridged, or should be clarified?

**Mr Smith:** A guess, really. A clear analysis, again, of what is being collected by category, and within the Directive there are ten different categories, and to know, I guess, how many small appliances are being collected at the moment, where they are being collected and, again, if there is a gap there. We have done some work on the contribution of retail already, through mobile 'phones to the larger white stuff, which is quite a sizeable amount as well. I think it is just someone putting all that data together to have a clearer picture of the nationwide situation, really, at the moment.

**Mr McKechnie:** In addition, we have the national target, four kilograms per household per year. I am not sure how that breaks down to us, what is the size of our particular obligation perhaps related to sales. That is something that, in the way it was calculated, for instance, with the previous Packaging Directive, we knew down to the tonne what our obligation was. That is lacking in this particular Directive.

**Q85 David Taylor:** Do you think your members could have done a lot more in recent years in terms of WEEE, without having to be coerced into it by these regulations?

**Mr Smith:** We keep on saying that we are doing stuff at the moment. Again, it is knowing the parameters that we are working on here to see how far we need to go. I guess, if you look at the Directive now, we are achieving the Directive's target for collection, but not by specific category, not for the smaller WEEE, for example. Possibly, they could have been more proactive in looking at pilots, but again you need guidance really to say, "Well, how much more do we need to do?" Again, as James talked about, what environmental benefit that will deliver as well.

**Q86 David Taylor:** You will be dragged into doing the minimum, will you?

**Mr Smith:** No.

**Q87 Joan Ruddock:** I think in your written evidence you complained about a lack of a clear definition of responsibilities between DTI and Defra. I wonder what impact there has been, on your negotiations and your ability to plan, of having DTI, Defra and the Environment Agency all involved in this process? Can you say what kind of impact that has had on you and if it is a factor?

**Mr McKechnie:** It was difficult to know in the past who to address, so we simply duplicated and contacted both parties, and very often we were faced with identical questions from both organisations.



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**Q88 Joan Ruddock:** Did you give different answers?

**Mr McKechnie:** We provided them with the same answers. Of late though, and I hope I am not misinterpreting it, it does appear to be that DTI is the organisation that is putting together the plan.

**Q89 Joan Ruddock:** It is clear to you now, is it?

**Mr McKechnie:** It is certainly clear, yes.

**Q90 Joan Ruddock:** Have you got clear guidance now from Government? Are there any deficiencies in the position as you see it vis-à-vis Government?

**Mr Smith:** Let us deal with the retail obligation, what is the retail obligation, whether it is a mandatory in-store obligation or to support this number of sites throughout the UK, so that still needs to be firmed up really.

**Q91 Joan Ruddock:** Not firmed up, decided, by the sound of it?

**Mr Smith:** Decided by now, yes, exactly. I am hoping that will come out a lot clearer in the second consultation.

**Q92 Joan Ruddock:** When is that expected to be?

**Mr Smith:** At the end of this month, I have heard. Hopefully, that will clear things up for us.

**Q93 Chairman:** There are a lot of players involved in this. There is DTI, there is Defra, and sometimes it is said, in putting these kinds of European Directives, Environmental Directives, into effect, that really there is not the experience within the Departments. Is there any validity in that kind of comment?

**Mr Smith:** Yes. I would agree with that. Through the evidence that we gave to the Better Regulation Taskforce as well. We felt probably at an earlier stage they would have benefited more from a practical input, possibly a year or two years ago, whereby we could have said, "Well, this may have been working abroad and this is what we're doing at the moment," rather than really a year too late. We do feel that probably in certain areas there is a technical gap there. What we did with bringing in fridges as well was a number of days' education, whereby we took members of staff, DTI and Defra, around stores, to show, for example, in Oxford Street, how difficult it would be probably for a customer to bring back an old microwave, an old fridge, and so on. We have been as proactive as we could, which hopefully was of benefit to them. Within Defra, we have found with fridges and with WEEE that there is such a high turnover, people moving to other areas, that then you have to re-educate the staff, which can be very time-consuming.

**Q94 Chairman:** Rather like this notion of Maoist re-education. It is not back to the fields, it is back to the stores?

**Mr Smith:** Exactly. We showed them round the very small high street store and an out-of-town store as well, which was quite a good overview.

**Q95 Chairman:** How do we learn from this? Presumably, what you are saying is, "We understand some of the problems, we ought to be involved earlier on." Is that part of the message?

**Mr Smith:** Yes, it is. We have talked about this within our group, about are there placement opportunities, for example, for retailers to go in, once per week, or whatever the demand would be. It is an exchange of information really, and we are willing to input from our side if that offer was taken up.

**Mr McKechnie:** We have something similar in the future. "Please can we be involved earlier?"

**Q96 Chairman:** When did you first become involved with this particular Directive?

**Mr Smith:** We were active throughout the negotiations of the Directive. At that time, there was for us the threat that there would be a mandatory in-store take-back, so we were involved at a very early stage through that, so two or three years back really, and it feels like every day since then.

**Q97 Mr Mitchell:** That is different from the fridge fiasco, is it not, in the sense that I think certainly the retail side made its views known only when Dixons got on to the DTI and said, "We're flooded with fridges"? You were consulted from the start as to what you could do and how you could deal with this?

**Mr Smith:** Yes. We were fortunate to have, and we have, a very proactive Brussels office, so it was on their radar at a very early stage during this, as Batteries and other Directives have been for a couple of years as well.

**Q98 Mr Mitchell:** I am pleased to hear that, there is a learning curve. I get the impression, and you might confirm it or reject it, that in matters like this the British Government is kind of dragged, stumbling, bumbling, protesting, behind, whereas the running is made by other countries and other causes. Would that be a fair impression?

**Mr Smith:** I think it would be. I think it is the situation. You do find, in dealing with these issues day to day, that Germany and all the other countries are held up always as good case studies, "They've been doing it for years, why can't you do it?" Yes, it is probably about time we question why we do not do it, why are consumers, the public, so different in the UK compared with other countries? For that reason, yes, we always seem to be behind.

**Q99 Mr Mitchell:** Of course, you have a certain responsibility in that field, because British business does not want to be regulated particularly, it is constantly going on about Government interference, and let the market decide, and all of this. This is a contest between two reluctant forces trying to work together to resist something, or modify something, or deal with something, coming from Europe. Is that a fair picture too, that you have a responsibility?

**Mr Smith:** Definitely we have a responsibility to our members.

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**Q100 Mr Mitchell:** No. A responsibility in the sense that they do not particularly want this kind of regulation?

**Mr Smith:** Our position is very much that we have seen that the retail sector is doing collection already, I guess, where it works, where there is an end market for TVs, fridges, and so on, for the reclamation stuff, that has been going on for a number of years. Where we get hurt sort of with this is that sometimes it just does not make sense when it does come through. You do focus in on that smaller category, what may have been musical Christmas cards, and so on, you would have to ask yourself, "Where is the money benefit of taking this back, or having a specific target on the smaller stuff?" That does not make sense. I would not say we have been avoiding it. For a number of years, we have taken back on delivery mobile 'phones, cartridges, and so on, where there is not a market for it.

**Q101 Chairman:** Guidance is going to be out hopefully fairly shortly, and we need to convert that national guidance into local action. I think, Mr McKechnie, you are an advocate of big local authority involvement in this. What I find a bit difficult is, we have got a kind of national view, a strategic view, hopefully being put together, who is going to deliver that on the ground on a local basis? Are we going to do the same in Nuneaton as in Nottingham, should there be the same rubric across the country, or is there room for flexibility, and who decides?

**Mr McKechnie:** That is detail that we have not arrived at yet. We think we have a viable model, but as for the specifics of how much might go in a given area, we do not know yet. Also, as retailers, we look to have some sort of payment mechanism where it will be decided relative to sales, perhaps, or in some way, that we contribute X amount. How it gets decided how much will go to a particular contractor, because they have offered the best deal for a particular region, currently we are lacking that middle element.

**Q102 Joan Ruddock:** I presume there are retail associations in neighbouring continental European countries. Have you made any attempts to research with them what they have done where there are successful models being developed?

**Mr Smith:** We are lucky that we have, actually. We have a European trade body, EuroCommerce, who represent European commerce, so we had a European WEEE meeting about four or five months ago and we have got another one in December. A number of them do collect WEEE in store, but very, very small amounts. It has been interesting to exchange that kind of information. We continue to talk to them, and they have similar headaches, to be honest with you.

**Q103 Joan Ruddock:** Have you seen a successful model?

**Mr Smith:** No, we have not, not at the moment.

**Q104 Chairman:** Let me finish on this point. We have the Directive that has been agreed, that you were involved in, lots of discussions, at an early date, and even at this stage, two, three years later, we have not got a successful model anywhere in Europe about how we can operate. Surely, that is not coherent social policy, is it?

**Mr Smith:** I think what can be highlighted here is that we have been involved in a number of stakeholder meetings with DTI/Defra, one on our own and one with local authorities, and we had four, five or six of these meetings. Again, you get to the first consultation and really it takes the discussion back a step or two, when again you are put back in your box to argue your position, "No, we don't want in-store take-back." The discussions have been going on around, and then you have the very formal consultations that kind of take a step or two back. That is what we have found is the problem here, that you are put back in your box and made to defend your position again, rather than moving things on.

**Q105 Chairman:** I think, on that point, we will leave it. We are very grateful to you both for the points you have made, which has added to our thinking and our knowledge a great deal, so thank you very much for coming. If there is something which strikes you when you get out of the room, or over the next day or two, when you think "We should have told them that," please write to us?

**Mr Smith:** We will do certainly. Thank you.

**Chairman:** Thank you very much.

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#### Memorandum submitted by the Environmental Services Association (E8)

ESA is the sectoral trade association for the UK's waste and secondary resource management industry, which contributes more than £5 billion annually to the UK economy.

#### EXECUTIVE SUMMARY

- The EU is the primary driver for increasing resource efficiency in the UK. The Government must prepare fully for the implementation of EU legislation and ESA wants a stronger driver within Government to implement relevant EU law.
- The Government must make how it expects WEEE to be collected from private households.
- ESA advocates exploring a tradable market-based mechanism as the most cost-effective and flexible means of compliance.

- Effective regulation will be crucial in achieving compliance with the WEEE Directive. Waste managers need the certainty of clear and unambiguous standards with precise implementation dates and have confidence that regulations will be applied consistently.
- The Government must ensure that communication with waste managers, waste producers, regulators and local government is timely, inclusive and widespread.

## INTRODUCTION

1. Most waste management legislation originates in the EU and it is likely that the EU will remain the driving force for increased resource efficiency. Producer Responsibility legislation is dictating a fundamental switch in waste management policy: by ensuring that waste producers meet the costs of the environmental impact of their products when they become waste, it provides an incentive to change product design.

2. The implementation of the Packaging and Packaging Waste Directive (94/62/EEC) has helped to lift the UK's packaging waste recycling rate to around 42% and the overall recovery rate to over 50%. The WEEE Directive should similarly provide a further incentive to increase the recovery of materials and energy and more appropriately to manage hazardous materials.

3. EU environmental policies continue to evolve, and ESA has welcomed the European Commission's proposal to develop a Thematic Strategy on Waste Recycling with a Thematic Strategy for the Sustainable Use of Resources. We believe that the continuing integration of waste management and resource management will be the key driver in moving towards more sustainable patterns of production and consumption.

## PREPARATION FOR THE WEEE DIRECTIVE: CO-ORDINATION WITHIN GOVERNMENT

4. ESA has consistently supported the commitment of the EU to tackle environmental issues, and has engaged constructively with the European Commission and UK Government to seek the most effective implementation of EU law.

5. However, the UK Government's recent record of implementing EU law is disappointing. The Environment, Food and Rural Affairs Select Committee itself stated in its report on the Future of Waste Management<sup>1</sup>:

“Once again, we question the Department's ability to negotiate and implement European Union laws to the best advantage of the United Kingdom. [DEFRA's] ability to manage European Union Directives is still disappointing. [The Committee] are left with the impression that Defra views the negotiation and implementation of environmental Directives as a painful chore rather than as a positive opportunity for change”.

6. The Environmental Audit Committee<sup>2</sup> found that the Government's record in dealing with EU legislation on waste is poor and noted that the Government would need to anticipate and plan for the consequences of these measures more effectively than it had done in the past both to avoid further chaos and to ensure that UK business was able to exploit the new business opportunities.

7. Furthermore, the Better Regulation Task Force (BRTF), in its recent report *Environmental Regulation: Getting the Message Across*, stated that the implementation of the WEEE Directive has been complicated by responsibility being split between DEFRA and DTI, with input from the Environment Agency, and that these arrangements had resulted in a lack of leadership. For example, DTI leads on the implementation of the Directive, while DEFRA retains control over general waste policy.

8. ESA agrees with the recommendation from the BRTF that there should be a single focus in Government for the introduction of EU environmental and waste legislation to establish a more strategic approach and better coordination across Government departments.

## IMPLEMENTING THE WEEE DIRECTIVE: THE SCALE OF THE CHALLENGE

9. The UK discards an estimated 1 million tonnes of waste electrical and electronic equipment each year and across the EU this category of the municipal waste stream is growing three times faster than any other (it is currently growing at around 7% per annum). Annual arisings of WEEE in the UK are relatively small compared with packaging waste arisings of over 10 million tonnes. However, WEEE is more complex, comprising a range of materials, some of which are hazardous and require appropriate separation, removal and treatment.

<sup>1</sup> The Future of Waste Management. Eighth Report of Session 2002–03. House of Commons Environment, Food and Rural Affairs Committee. <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmenvfru/385/38502.htm>

<sup>2</sup> Waste: An Audit. Fifth report of session 2002–03. House of Commons Environmental Audit Committee. <http://www.parliament.the-stationery-office.co.uk/pa/cm200203/cmselect/cmenvaud/99/9902.htm>

## COLLECTION OF WEEE

10. The WEEE Directive requires Member States to adopt measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection. Member States must set up systems to allow householders to return WEEE free of charge and to ensure the availability and accessibility of the necessary collection facilities, taking account of population density.

11. Establishing collection systems and WEEE reception facilities will require significant investment. This investment can only be made if there is a swift resolution to the issue of whether producer responsibility is collective or attached to individual producers, and the mechanisms by which the obligated producers will finance the management of WEEE (as required by the Directive).

12. Furthermore, the roles of local authorities, and ESA's Members as their private sector partners in the collection of WEEE from private households, remain unclear. Although the Directive does not mandate the separate collection of WEEE from private households it is expected that local authorities will continue to collect WEEE as part of existing bulky waste collections and receive WEEE deposited at Civic Amenity sites.

### *Separate collection of WEEE from private households*

13. As it is generally accepted that the UK already achieves the 4 kg *per capita* collection target through the take back and deposit of larger white goods and some sources indicate that the current *per capita* collection rate may be as high as 7–8 kg, there is little incentive for the Government to promote the separate collection of WEEE from the household waste stream.

14. Whilst larger household items will continue to be separated and recycled according to current practices ESA fears that smaller items, which contain potentially hazardous components, will continue to be discarded within the mixed household waste stream.

15. ESA urges the Government to promote separation of WEEE from other household waste in order to remove hazardous components from the municipal waste stream. Separation of hazardous household waste, which is not confined to WEEE but includes a range of household products and chemicals, could be facilitated cost-effectively by encouraging its deposit by householders at central collection points such as CA sites.

16. Furthermore, ESA's Members can offer expertise gained from operating separate collection systems in other EU Member States. For example, legislation requires the separate collection of hazardous household wastes in Flanders, Belgium. This regulatory driver has encouraged both public and private sector investment in reception, collection and destruction facilities. This has resulted in a high quality service while maintaining a competitive cost environment.

### *Civic amenity sites*

17. Civic Amenity (CA) sites, many of which are operated on behalf of local authorities by ESA's Members, will play a key role in meeting the requirement to minimise the disposal of WEEE by facilitating its collection and separation from the municipal waste stream.

18. CA sites are existing, licensed waste management infrastructure. Further development of CA sites would be easier, quicker and more cost-effective than developing and permitting completely new collection and deposit infrastructure. Indeed, CA sites currently accept larger items of WEEE—such as washing machines, refrigerators and cookers—as strong markets for secondary metals have provided a valuable income stream.

19. However, the current use of CA sites is constrained and the waste management industry and local authorities are still unaware of how Government intends to remove these constraints.

20. For instance:

- (a) Many CA sites have insufficient physical capacity to handle and significant increase in volumes of WEEE.
- (b) Other CA sites are relatively inaccessible, and some small sites may not be suitable for a large throughput of vehicles. These factors also limit the potential future development of some sites.
- (c) Some CA sites are not currently licensed to accept those items of WEEE classified as hazardous (eg equipment containing cathode ray tubes). Whilst operators may seek amendment to waste management licences, this would involve a cost—borne either by local authorities or their contractors—and potentially a significant time delay.

- (d) CA sites might also be restricted by the original planning permission which dictates the types and quantities of waste that can be handled. Amending planning permission involves a cost and potentially a substantial amount of time.

#### COMPLIANCE

21. Implementing the WEEE Directive will require a suitable compliance system for waste producers to demonstrate that they have discharged their obligation.

22. A broadly successful model of producer responsibility compliance currently in operation in the UK is the Packaging Recovery Note (PRN) system, established to demonstrate compliance with the Packaging Waste Regulations. The PRN system is a tradable permit-based system which was established in order to stimulate investment in new reprocessing infrastructure.

23. ESA believes that a market-based approach using tradable permits would provide a cost-effective and flexible mechanism to achieve compliance with the WEEE Directive.

#### REGULATION

24. Regulation is crucial to achieve compliance with the WEEE Directive. Waste managers require:

- clear and unambiguous standards, with precise implementation dates; and
- confidence that regulation will be consistent and proportionate.

#### STANDARDS AND DEFINITIONS FOR FACILITIES HANDLING WEEE

25. Compliance with the WEEE Directive will require private sector investment in infrastructure to treat waste to appropriate standards. In order for industry to have the confidence to make the necessary investment, it must have a clear understanding of the minimum standards which facilities handling WEEE will be required to achieve.

26. Article 6 of the WEEE Directive requires that systems established to provide for the treatment of WEEE use the “best available treatment, recovery and recycling techniques” and that any establishment carrying out treatment operations obtains a permit from the competent authorities. With less than a year before the WEEE Directive becomes law in the UK, ESA’s Members are still unsure of the Government’s timetable for producing relevant guidance and information. Such uncertainty impacts directly on issues related to land acquisition, planning, and the construction and permitting of new facilities.

27. Many treatment and recycling operations currently take place in countries outside the EU such as China and India. It is expected that this pattern will continue. If so, it is essential that there is a robust and reliable system for monitoring the recycling and recovery of waste abroad: ESA has had no indication of how the Government proposes to verify that recycling and recovery has actually taken place in countries outside the European Union.

28. ESA assumes all exports of hazardous waste for recovery will be carried out in accordance with relevant international agreements on the transport and management of waste. This would include the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Transfrontier Shipments Regulation.

#### THE ROLE OF THE ENVIRONMENT AGENCY

29. Our industry is driven primarily by regulation, and its future is dependent on a clearly focussed regulator. The Agency has seen a significant increase in its regulatory responsibilities as a result of the implementation of EU environment and waste law. This workload is set to increase with several future laws due to be adopted in the UK over the next few years.

30. The Environment Agency has acknowledged difficulties in monitoring and enforcing the Packaging Waste Regulations, partly due to the complexity of the Regulations and partly due to a lack of resources to deal with its new responsibilities.

31. Therefore, the Government must ensure that:

- the WEEE (and ELV) Regulations provide a clear and effective framework for implementing the specific requirements of the Directive; and
- the Agency is sufficiently resourced to enforce the Regulations.

32. ESA urges the Government to take note of Recommendation 7 of the BRTF report: to commit to giving the Agency the means to raise the necessary resources to take on the new role of enforcing the WEEE and ELV Regulations or to provide them directly.

#### COMMUNICATION

##### *Communicating with industry*

33. In its recent report, *Environmental Regulation: Getting the message across*, the BRTF cited the example of the debacle surrounding the implementation of the Ozone Depleting Substances Regulation as a failure of the Government to communicate the necessary information to industry. The BRTF reported that delays in taking key decisions resulted in the “fridge mountain” because the waste management industry did not have enough information from the Government to prepare for the Regulation. The report concluded that there was a need to ensure that all players in the market have sufficient information to make sound investment choices.

34. ESA agrees that the engagement of different players must be more timely, inclusive and widespread.

##### *Communicating with householders*

35. Essential to the success of complying with the WEEE Directive will be ensuring that the requirements of Article 10 (Information for users) are met. The Government must take the lead in communicating with householders and provide the necessary resources to meet the requirements of Article 10, to help to secure the UK’s compliance with the Directive’s targets.

October 2003

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### **Memorandum submitted by Biffa Waste Services Ltd (E9)**

#### **END OF LIFE VEHICLES AND WEEE DIRECTIVES**

#### **I BACKGROUND**

Biffa Waste Services is the largest waste management company operating in the UK—it is the largest wholly British owned waste management company and can justifiably claim to be the most diverse in terms of its spread of interest in industrial/commercial and domestic collection, landfill, liquid waste stream and specialist hazardous waste management systems. The company has a turnover of around £700 million at a current annualised rate and is also in the top three waste management companies operating in Belgium. We are wholly owned by Severn Trent Plc with over 210 operating centres throughout the UK. We handle 14 million tonnes of material that is treated, landfilled or recycled on behalf of an extensive customer base exceeding 85,000 in the public, commercial and industrial sectors.

#### **II OBJECTIVES**

We have tried to be brief in providing responses around the five following areas:

- Vision.
- Economics.
- Technology.
- Implementation process.
- The role of DEFRA.

Our commercial interest in this area relates to the possibility of additional work involved in the logistics of moving end life material from these sectors and to this end we have formed strategic partnerships with reprocessors of equipment (European Metal Recycling—EMR) and companies involved in the delivery and servicing of household equipment through insurance and Guarantee support services. Before investing money and time in servicing these market opportunities, we have three simple objectives which we seek to determine:

- (i) Is there a clear demonstration of a long term liability on the specific group prepared to fund the operation for a secure forward period?
- (ii) Are there clearly defined technical standards, defined or in place, relating to minimum standards of technology and equipment required to undertake the waste management process?

- (iii) Even if such standards are clear and in place, is there sufficient comfort that the regulatory regime will apply those standards in an even handed and standardised fashion—thus preventing freeloaders undercutting companies like us who are duty bound to work as a minimum to the defined standards?

### III VISION

(i) The Cabinet as a whole appears to lack any overall strategy with regard to the management of end life resources in the economy. DEFRA alone cannot tackle this—it is the poor relation in a number of senses and any cohesive approach to improving resource efficiency requires the combined will of the Treasury, ODPM, DTI and DEFRA acting in a coordinated and focused fashion.

(ii) As a consequence of this lack of vision, the working of many government departments involved in waste is ad hoc, non strategic and reactive. There is a fundamental failure to look forward to any future vision of what the planned “ideal” framework might be against set achievement dates of at least 10 years hence. As a result there is policy drift because there is no detailed statement identifying the end game plan in terms of funding, defining the anticipated costs, numbers of expected facilities and potential knowledge gaps against which academic and R&D funding support strategies might be built. These weaknesses are not specific to ELV and WEEE sectors—they extend across the spectrum and reflect the generally reactive approach we have adopted to Directives that have been in development in Europe for almost 10 years. Waste strategies have appeared at regular intervals but represent aspirational wish lists rather than closely argued implementation plans covering the economics, technology and monitoring of specific product strategies.

(iii) The recent release of the consultation on Sustainable Consumption and Production Indicators is a move in the right direction but government has still not grasped the need to develop an integrated structure of online resource flow data capture in ways which will permit analysis by industry/sector, region and material type. We see this gap as a major omission in terms of developing genuinely sensible strategies on implementing resource economics into the UK in both public and private sectors. Such information gathering does not even feature anywhere in the pantheon of e-government initiatives although it is being picked up by the Regional Observatories in part.

### IV ECONOMICS

(i) For both ELV and WEEE, government should have addressed the need for a macro economic Regulatory Impact Assessment based on dialogue with manufacturers, reproprocessors and the waste industry. As a result of that failure, those in the industrial supply chain have resorted to their traditional roles of resisting any attempt to pass the cost of end life management up the supply chain back to manufacturers.

(ii) As a consequence, the deferral of these regulations to 2007 is now going to impose far greater costs on the economy. In our view, the reality that internalising so called pollution externalities imposes positive costs on the economy overall should have been defined far earlier in the process. The discussion could then concentrate on how that cost can be kept to a minimum and subsequently passed through to the consumer at the point of purchase rather than to the final user. The reality is that those issues are fudged and instead of being able to achieve significant economies of scale—with contracts being let by relatively small numbers of manufacturers on a competitive basis—there is now going to be a period of four years when a confused public deposits many of these materials with around 600 different local authority bodies, legally at civic amenity sites or illegally through fly tipping. Implementation becomes fragmented, disjointed and varies from district council to district council. Waste companies have no incentive to invest because contracts are short term and uncoordinated, reproprocessors lack certainty of supply for tonnages that are too small to operate process technologies at full capacity.

(iii) In reality the economic costs relative to sector retail turnover (which is generally around double that of factory gate values) is quite small. Two million cars scrapped annually can be de-polluted and reprocessed at a net cost of around £50 each—£100 million per annum in a market worth £45 billion per annum (including vans). Similarly one million tonnes of WEEE can probably be reprocessed at £300 per tonne net—£300 million per annum for a sector with a retail value in excess of £40bn—figures for the value of sales to commercial/industrial users are difficult to establish.

(iv) As a result of the fudges on single point responsibility and deferral, there is no possibility of a coherent approach to applying single point and/or shared responsibility. DEFRA is not the place to develop the common approach to Traded Pollution Permits because their economic skills appear limited. In consequence the UK faces the emergence of Tradable Permit regimes which operate in structurally different ways for different products—this is clearly a nonsense. In the case of WEEE and ELV, they have even been positively ruled out.

## V TECHNOLOGY

(i) The Industry Council for Electrical and Electronic Recovery (ICER) has done much good work in developing technical standards for reprocessors. Nevertheless the track record on whether DEFRA/EA accept these as binding within their own internal systems is not good. There seems to be a marked reluctance—in the context of tight time windows—to accept lock, stock and barrel sometimes long extant standards and technical guidance notes which have been developed in other European countries—notably Scandinavia, Germany and Switzerland. DEFRA and the EA appear to want to reinvent the wheel utilising long winded consultation processes which operate at arcane levels of detail and drag everybody into a swamp where ultimately we lose sight of the wood for the trees.

This was a fundamental issue in the case of fridges after which—despite all the hard work—it was clear that a number of operators were given licences to operate with grossly inappropriate and highly polluting devices which became the laughing stock of European hi-tech suppliers who had been supplying low emission compliant equipment for decades in their home markets.

(ii) For companies contemplating investment in logistics or reprocessing infrastructures, there is no assurance on ELV or WEEE—plus a confirmed track record with fridges—that there will be a level playing field on enforcement. No-one in the DTI or DEFRA seems prepared to shut down the thousands of scrap yards operating in the UK to grossly polluting standards, often draining vehicle fluids and heavy metals into the ground where they operate. Informed industry sources suggest that at least one third of scrap yards are operating illegally and yet there appears to be no cohesive preparedness between the Environment Agency, the civil police and Customs & Excise to target those companies. Either we are going to move to an efficient system of end life product management or we are going to carry on with the existing fudge and allow the most outrageous infringements of basic Regulations. It is hardly surprising, as a result, that the only investment in car de-pollution facilities which currently exists, is servicing the insurance accident write-off market—where the insurance company owners clearly take their end life responsibilities seriously. This amounts to around 5% of the current scrap car park.

## VI PROCESS

(i) Policy continues to be bedevilled by the absence of any coherent data capture and information exchange through online systems. DTI and DEFRA must be more aggressive in ensuring that it is a precondition of receiving a waste management licence to handle WEEE or ELVs (or for that matter any other material affected by IPP Directives) that the relevant company must compulsorily join an electronic intranet which collects data on tonnages, quantities, times, references numbers, etc to whatever appropriate sets of standards are confirmed. Such systems need to be under the overall administrative control of the Environment Agency as regulator and the software should be developed on the basis that double entry systems apply—ie any output flows from one party to another are corroborated as a receipt of an equivalent quantity or tonnage. In this way the whole system should become self-balancing. If it is not it becomes clear very early on where material is exiting illegally or entering without provenance.

We find it absolutely staggering that 13 years after the Duty of Care concept was introduced into waste management, there is no cohesive government strategy to implement such systems and for them to interconnect with other databases. The Agency is working on such a system for hazardous waste and we have suggested a framework for such an approach in relation to tyres to the DTI. That such a system was not installed for fridges is equally staggering—no-one appears to have any idea which fridges have gone where, to who and when. There is certainly no overall mass balance which identifies the tonnage of fridges input and then the breakdown and final destinations of an equivalent tonnage of outputs. Indeed, one processing company has been fined £65,000 for transgressions but they probably took at least £3m in income at the front end from public subsidies without apparently possessing any form of infrastructure to process the fridges in line with the loftily defined standards.

As far as DEFRA is concerned there is no longer a fridge problem—sufficient processing capacity exists to manage the quantity being ejected as waste each year. The sad reality is that they seem to have lost the plot with regard to the objective of the original Ozone Depleting Substances Regulations. In 1999 this country was responsible for the ejection of around 1,500 tonnes of CFC global warming gases into the atmosphere from fridges each year and yet—because there is no installed data capture system in place—nobody has a clue whether the current level of ejections is zero or 1,100 tonnes per annum. Thus we have a system where we estimate that around £20 million–£25 million each year of public subsidies are pumped into local authorities to fund the collection and processing of fridges but there is no audit trail which can prove how much we have reduced our global warming potential. This fiasco promises to be repeated with WEEE and ELV until such time as manufacturers are liable for managing the process, when tight documentary control will become a pre-requisite.



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## VII DEFRA

(i) It is somewhat harsh to lay all these inadequacies purely at the door of DEFRA. They have become the unwilling handmaiden of a process in which they do not have a hope of coping unless they are supported by integrated policies originating in the Treasury, ODPM and DTI. It is generally known that there is a substantial skills gap within the Department and it is hardly on the hit list of up and coming civil servants to spend any time there whatsoever.

(ii) End life product strategies for particular products—WEEE and ELV are classic examples—need to be tackled within the context of the inbound industrial supply chain. On that basis it was inevitable that the DTI would take a more high profile role. The consequence is that the DTI sees its task as primarily about delaying the introduction of incremental costs to their private sector industry customers individually (or collectively) in the form of CBI and IoD. As a result, strategy in this area is characterised by deferral of deadline dates, watering down and the transfer of liabilities onto local authorities away from industrial supply chains. This latter is perplexing insofar as government is simply adding to the costs of managing a growing stream of waste management reclamation systems through the least efficient route—hundreds of local authority bodies who are (on their own admission) woefully unskilled in managing these materials in a coherent way.

(iii) There are around 15 million tonnes of materials passing through the domestic waste stream at the moment—50% of the total—that could loosely come within the framework of Producer Responsibility Regulations (electricals, automotive, packaging, household hazardous goods, nappies, tyres, oils, etc). The current cost to the Treasury of collecting and disposing of these materials in 2003 is of the order of £750 million per annum (at £50 per tonne). By extending the window for manufacturers to bear that cost and include it in the purchase price of the products to 2007 and beyond, DEFRA is committing the Treasury to incremental costs of another £750 million annually as a minimum—in effect around £1.5 billion is being added to Gordon Brown's funding gap and there is no precise certainty that the original environmental goals will be achieved—witness fridges as an example.

(iv) DEFRA and DTI naturally handle issues like WEEE and ELV through product specialists—the drawback of that process is that they do not think outside the box in terms of lateral (and parallel) policy areas such as examining the role of the planning system, the need for a consenting strategy on similar processes such as cement kilns or specialist incineration equipment. The vision tends to be binocular around a particular material rather than integrated into a wider tapestry.

(v) Having attended a meeting of the Parliamentary Sustainable Waste Group on 23 October and heard the conclusions of the Hazardous Waste Working Group, it is clear that the consequences of this disjointed approach will be visited upon the UK with regard to hazardous waste in July 2004. Their report is imminent but their litany of waste stockpiles, businesses closing down because they cannot dispose of waste or businesses having to face the export of material to other European countries (whose coherency of thinking has established a suitable economic added value chain for reprocessing facilities 10 years before we have failed) is quite explicit.

(vi) The House of Lords enquiry from Subcommittee D into the Challenge of Waste Management and European Union Policy Development is about to print their oral evidence. It is germane to include a reference to their question to me on how it could have been done differently or could be modified today to move forward. In essence, DEFRA/EA should become a centre of excellence with regard to the timing and nature of the transfer of regulations together with the development of appropriate standards applicable to associated technologies, their licensing, consenting and enforcement. They should not have responsibility for implementation. If the Directive impacts on a specific good or product then that responsibility should be given to the DTI who should be tasked with achieving the compliance targets. In the case of Directives applicable to household and domestic waste, that responsibility should be with the ODPM. The ODPM currently appears indifferent to the planning and licensing issues for waste management facilities and appears extremely distant from the implementation process. Clearly this emasculates DEFRA in two key areas of implementation for end life management of products and material from domestic households. The ODPM remains deeply interested in the provision of PFI infrastructures for the provision of facilities in the public sector which—in some cases—are highly relevant to the implementation of Producer Responsibility liabilities (for example material recovery facilities and civic amenity sites). What is clear is that the sands of time are now running out and if something is not done urgently then the non-implementation of a coherent framework of policies in waste will haunt this government over the next five years to the point where it will become a severe embarrassment.

**Supplementary memorandum submitted by Biffa Waste Services Ltd (E9a)**

Detailed tabulations of materials/sector turnovers and end life neutralisation costs.

Sector turnover statistics are based on MEAL data and publications in the public domain from market research agencies such as Jordans surveys and AC Nielson. End life processing cost is based on our own estimates and is inclusive of logistics/transport as well as processing/gate fees. No allowance is made for the value of recovered materials.

**COSTS FOR RECYCLED END LIFE MANAGEMENT  
(EXCLUDES CAPITAL)—UK PRODUCER RESPONSIBILITY**

<i>Sector/Product</i>	<i>(a) £ million Sector Turnover</i>	<i>(b) Million Tonnes Available Waste (including imports)</i>	<i>(c) Logistics Recovery Cost £ per tonne</i>	<i>(d) Annual £ million Total Recovery Cost</i>	<i>(d) ÷ x (a) %</i>
Glass	720	2.4	60	120	16
Paper and Board	11,200	8.0	30	240	2
Fridges/Freezers	660	0.12	600	60	10
Fluorescents	80	0.01	4,000	40	50
Plastics	19,300	1.0	120	120	1
Cars		2.0	60	120	0.5
Private	29,000				
Commercial	30,000				
Batteries	?				
Other White					
Goods	1,900	0.27	60	30	2
Brown Goods	3,700	0.2	90	30	1
Tyres	1,000	0.4	90	36	3.8
IT Equipment	?	0.36	330	120	?
Pesticide	?	0.1	600	60	?
Containers					
Household hazwaste	3,500	0.2	100	200	6.0
<b>Total</b>	<b>102 billion (R)</b>	<b>14.8</b>		<b>1,180(R)</b>	

*Notes:*

Fridges — 30 per tonne

Cars — 1 tonne each

Hazwaste turnover = cleaning materials/horticultural goods (no DIY)

(R) — rounded

November 2003

*Witnesses:* **Mr Dirk Hazell**, Chief Executive, Environmental Services Association; and **Mr Peter Jones**, Director of Development and External Relations, Biffa Waste Services Ltd; examined.

**Q106 Chairman:** Can I welcome here two regular attendants, I might say the usual suspects. Dirk Hazell, from ESA, and Peter Jones, wearing a Biffa hat. We are grateful to you for coming yet again. You have been sitting in and hearing the discussion. What is the role of local authorities in all of this?

**Mr Hazell:** We do not know yet. Transposition is less than a year off and, notwithstanding the efforts of this Select Committee over the years, our efforts over the years, even the guidance of the Better Regulation Taskforce, we do not know actually who is going to be doing what. I think strands of that came through fairly clearly in the evidence you were given last. The last witnesses stated quite correctly that local authorities are not going to have a specific duty, as they do not, under the Directive and I think

DTI has indicated they are not minded to impose that. We are in the slightly curious situation at the moment where, in terms of collection, we are complying with the requirements of the Directive, but where we are not in treatment. Although this is only hearsay, I think that the British Government may have added to the difficulty, because our understanding was that it was in the Council of Ministers that the British Government, and obviously we stand to be corrected by the Minister when you call him, it was a British Minister who did not want local authorities to have a particular duty to collect the waste separately. When you look at what the environmental objectives of this Directive were meant to be and nobody at ESA wants cost for the sake of it as the only point in having any

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**17 November 2003 Mr Dirk Hazell and Mr Peter Jones**

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additional cost is to achieve an environmental benefit presumably the main environmental benefit of collecting electronic goods is not to recycle the concrete base of washing machines but actually to stop the heavy metals, for example, and the printed circuits from going into landfill. If you want to do that, you might want a very clear role for local authorities. In a long-winded way, we do not know yet what local authorities are going to be doing.

**Mr Jones:** The central issue behind your question reflects this whole malaise of ownership and the association of authority and responsibility. As I put in our submission, Mr Chairman, you have got the chaos, in terms of ownership, between DTI, Defra, Treasury, ODPM, and indeed the Environment Agency on the periphery of that process. What we have here is a process where Government seems to have accepted the notion of “producer responsibility” but it is not prepared to drive those messages through the price chain. Nobody is saying to the general public out there that “If you want all this, it is going to cost.” We think, in the industry, “about £5 billion a year,” in total, not just for WEEE and Vehicles. At the moment, about 100 million tonnes of waste is handled by our industry for about £50 a tonne, and our calculations are that those same 100 million tonnes can be managed much more effectively for an incremental £50 a tonne, moving it to £100. That is an average across the entire British waste stream. The consequence is then that the Government is on the horns of a dilemma, because, if it is not going to drive responsibility crisply through the manufacturers, or the retailers (the supply chain prices), to recover those costs, then it will be pumping in more and more money through Defra. Sometimes DTI takes ownership of this process, as it has done with WEEE. Sometimes, in the case of Packaging, Defra does it. What DTI has succeeded in doing basically is deferring the liability for those costs to be transferred through supply chain prices, and it has left Defra with the responsibility now to go to the Treasury and say, “Can we have about £20 million a year to pick up all the fridges? Can we have” (on our estimates) “about £30 million a year to deal with abandoned cars?” (although that is getting less, because the price of scrap has gone up.) “Can we have £170 to offer money to local authorities to put in kerbside recycling?” which Ms Ruddock has emphasised quite rightly is a key issue—and well done on the Bill. If you want to give that responsibility to local authorities then the Government is going to have to find that money from the Treasury, if it wants to deliver these objectives, otherwise it has got to grasp the nettle and drive it through these supply chains. In fact, what it has done with tyres, WEEE, with hazardous household waste, and all the other products, is starting off this huge consultation process and then just leaving industry to fight it through different power blocks, (whether it is the retailers or the manufacturers) who say, “It’s not my problem, it’s theirs.” For the general public, when all this comes out in the wash, as you have touched upon, you are going to end up with different systems for different products in different parts of the

country, and people will laugh at us, we will be a laughing stock. Not our industry but parliamentarians and Government, because, in some cases, there are tradeable permits, in others you would not dream of taking an old abandoned car back to a car dealership but you will have to do that for electric hair-dryers. People will laugh. There is no consistency, no general system at all.

**Q107 Chairman:** There is an awful lot there. Let us try just to unpick some of that and focus perhaps on three areas. First of all, a lack of ownership, a lack of leadership in Government, and we will come to that in a second. Secondly, there is a question of who pays, and maybe there are short-term costs and longer-term costs. Short-term costs maybe are Exchequer costs, through Defra, to local authorities. In the longer term, surely it must be the case that the producer takes more responsibility, with a knock-on effect to the consumer? The third issue, and you guys are the professionals, I am really struggling to see what this system is going to look like in four or five years’ time, three years’ time, maybe you could describe that to us? Let us start with the easy one, an area that we are familiar with. What is going on in Government and why cannot we resolve this? Maybe we could have the reply in one minute, without deviation and repetition?

**Mr Jones:** I would suggest Chair, the same line of response that I gave to the House of Lords Committee. We need a crisp responsibility within the Environment Agency, who have got immense technical skills, both scientific and numeric, in terms of data capture and data collection, and Defra, (of which ostensibly they are a part) effectively to be the guardians at the gate. They have to come out with standards that define preferably who is going to pay, and what sort of basic technologies and operating processes and transparency on data collection are required. We think the system would work, as far as Biffa is concerned, far more effectively if DTI took ownership of about 15 million tonnes of materials, that legitimately could be brought under the “Producer Responsibility” framework, from packaging to cars. Over the last 200 years, we have an industrial society that delivers things into society in conventional categories: fridges, clothing, shoes, office furniture, and so on. Those people design products and put materials in them, in some cases, without an awareness of the long-term pollution potential, and giving them back that liability could change the way those products are designed, sold, leased and how long they live. If producers of mobile “phones had that responsibility then you would not be getting kids persuaded that they should have a new mobile “phone every fortnight. In terms of ownership then that applies to that 15 million tonnes. Clearly, ODPM has to be liable for household waste. You could not make farmers liable for food waste, that is crazy, so the ODPM has a liability for around 20 million tonnes of material that is just dross in the domestic supply chain. Then you have a sort of “producer responsibility” in the construction sector, but you do not make quarry manufacturers responsible for all buildings maybe.

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Effectively we have not even had any of that debate about these overarching structures, we have gone straight into the detail and replicated a lot of different systems on an ad hoc basis, without any overall consistency.

**Mr Hazell:** Clearly there is a problem with attitude within the British Government. Following the changes in the Maastricht and Amsterdam Treaties, the approach to the Government—

**Chairman:** We are going to break there, gentlemen, for a division.

*The Committee suspended from 5.06 pm to 5.15 pm for a division in the House.*

**Q108 Chairman:** We are going to put Mrs Organ on the Sub-Committee, and that is agreed by acclaim, so this is a coronation. We will continue. I think we were talking a little bit about different responsibilities, divided responsibilities, and you were going to follow up some of the points that Peter Jones had just made?

**Mr Hazell:** I was agreeing with Peter but then, just very briefly, going on to say that, in terms of negotiating the Directive, we are a million miles from the second recommendation of the Better Regulation Taskforce, as far as our sector is concerned. The difficulty is, I think, from the Government's point of view, that the Maastricht and Amsterdam Treaties actually do change the whole structure of making new European policies. The character of our engagement with the European Commission, including the European Commissioner now, on the forthcoming thematic strategies on recycling and resource efficiency, so it is future policy, is of a different order of magnitude from the engagement we have had with DTI, in terms of the negotiation of this Directive. We were informed when drafts changed during negotiation of the Directive, but there was never any engagement with us on the practical impact that any of that would have. Certainly, when it comes to implementing the Directives that have been agreed already, when you are looking at this sector, quite simply there has not been the investment in human skill, within the process of Government, in human resources. I think we would agree quite strongly with the evidence which has been given already.

**Q109 Chairman:** Let us go back to the second issue we were talking about, costs, and I think, Peter, you were saying in very strong terms that this is a cost that is falling on the taxpayer in the short term, is that right?

**Mr Jones:** In the short term, the way that the Government has set this ball rolling, by deferring "producer responsibility", means that Government cannot escape the Directives to which it has signed up, and therefore, as a result, it has to face subsidy support, principally to local authorities, of course. If you look at that across the entire waste stream, our submission always has been that is an open-ended mechanism for support and it could reach easily £1

billion a year fairly quickly, in terms of the additional monies that local authorities will need to manage this process.

**Q110 Chairman:** For all the Directives?

**Mr Jones:** Yes. At the moment, on our estimates, there is about £500 million to £600 million going in, under various guises, including organisations like WRAP, and so forth, which essentially are market-support mechanisms. In the case of your original question of who pays, ultimately, this is the consumer, but nobody really is coming clean and saying, "Do you want to pay that through the price of products in the shops, where the responsibility is up the supply chain, or do you want to pay it through income tax, VAT, and so forth, up to 2005/2007, when these Directives all come together through local authority support systems?" The fridges funding, for which I think Michael Meacher obtained £80 million over three years, will end at the end of this year. Does that mean that local authorities, which currently are spending £20 million a year to retrieve fridges from the system, are going to have to take that out of their other budgets? Of course, the ODPM's office do not bother really. They say, "Well, that's Defra, they have got to fight that battle with the Treasury." It is not an ideal mechanism.

**Mr Hazell:** This particular Directive is clear about who has to pay in the end. It is a "producer pays" Directive and there are also specific obligations on the retail sector. I agree with what Peter said, that in the end what you have got to get to with electronic goods is very clear, but in less than a year from transposition we have not got a clue what is going to happen, I think as the retailers' evidence made very clear to you. Which is a potential risk, because at the moment we have got a collection system which works, more or less, but the funding of that will have to change because it will have to go to the producer.

**Chairman:** Let us stop there. The third issue about what the game is going to look like in two or three years' time we will come back to in a minute, towards the end, and I will ask Austin if he would like to chip in there.

**Q111 Mr Mitchell:** There is an element of self interest in what you are saying, surely? What you are saying, essentially, is that when the producer pays the producer will pay you to dispose of it. In the interim, Government is doling out money to local authorities to patch up the situation, not to Biffa?

**Mr Jones:** Ultimately, the local authorities then come to us or to our competitors. As an industry, we have always maintained that the cost per unit, or however you look at it, for the retrieval of these products, Mr Mitchell, is handled far better through these large contracts that are managed by two or three companies on the supply side. At the moment, you have got 600 district councils running around. All they want to do is just get the fridges collected, so they are going out, with no cohesive framework for negotiating large-scale infrastructures- they are paying a lot more per unit and environmentally it is not very sensible. You have got a lot of vehicles that

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are running a lot of kilometres, taking material, and there is just no tracking system in place for these things. If manufacturers had that responsibility, they would need to be overseen, I think, by the Office of Fair Trading, so that there was no chicanery, in terms of hidden price increases, but basically our suggestion is that you would have very strong purchasing groups that procured the logistics and the retrieval systems. Technically, those companies would own that product and they would let other contracts for their disposal and management, and, ultimately, that is what we need to be moving to. The current manufacturer reservation about buying into that process is because many of them are not making enough money to bear that cost. I think the much more legitimate discussion should be around how those incremental costs could be supported. Rather than give subsidies to the public bodies, the local authorities, it might be better to look at, say, reducing the National Insurance contributions from the electrical manufacturing sector, or the car manufacturing sector, as an offset. "The deal is, you take over liability for collection and management next year, we'll audit the cost, as Government, through the Agency, and then you can have 100% recovery of that cost in year one, through NRC relief in your sector." Then step that down over ten years.

**Q112 Mr Mitchell:** The thing itself sounds sensible, except that most of the manufacturers are now overseas?

**Mr Jones:** True, but the reality again is that, in Europe, the European governments have been much more precise in their thinking, they have defined that framework, and in most cases it is the same companies that you are talking to, the Phillips, the Electroluxes, the Fords, the General Motors, and so on. What we have in this country is a system of endless discussion, and nobody in Government takes ownership and says, "This is what you're going to do."

**Q113 Mr Mitchell:** What sorts of costs are going to be faced by your organisations in investing to meet the requirements of the Directive?

**Mr Jones:** At the moment, if you look at the product costs they vary enormously. We can let you have separate evidence on the calculations that we have done. If you look at ex-works costs for a car manufacturer then, anybody in the industry will tell you, you can depollute a car for about £50, compared with the average car selling price of several thousand pounds. In the case of a fluorescent lamp, it costs 50 pence to make it and it is going to cost 50 pence to depollute it, so you are talking about enormous variations in the cost of neutralising products based on their selling price and their toxicity.

**Q114 Mr Mitchell:** They used not to have those chemical applications. Is investment now being held up because of a lack of clarity about how it is going to operate?

**Mr Jones:** Most definitely, and this is pervasive across the whole waste industry. I do not like going back to the example of fridges but it was a classic, because, as I put in our submission, any waste company wants three simple requirements. First of all, we need to know who is going to pay, who is the customer. Secondly, we need to know to what standards we have got to operate. Thirdly, we need the comfort that those standards are going to be applied. Unless we have got all those three beans in a row we are not going to put in money. What you see is lots of rogues and charlatans, (as you have seen in fridges) and so on, and to this day Defra will say that there is no fridge problem now. There is. We are still emitting, on our calculations, 50% of the ozone-depleting substances that those regulations were supposed to cure, and nobody has been able to prove to me that we are having that material burned.

**Mr Mitchell:** I sympathise with you. We have got the same competition from rogues and charlatans in politics. We do not say anything about it though.

**Q115 Joan Ruddock:** Can we go back to the issue of local authorities. In the ESA's written submission, obviously, you suggest that further development of the sites would be easier, quicker and more cost-effective, I think you said, than developing completely new deposit infrastructure. I wonder if you could develop that a bit and say why it would be easier, quicker and more cost-effective?

**Mr Hazell:** Broadly, we are complying with the collection requirements of the Directive already.

**Q116 Chairman:** This is the four kilograms?

**Mr Hazell:** Yes. It is about a quarter of this particular waste stream, so broadly we are compliant already with the collection requirements, and some people do take waste to civic amenity sites, so it is existing infrastructure. Given the relatively short timetables, I think the process of thought is that, given that there is not very much time and there is a shortage of infrastructure, the thing to do is to use what we have got and make the best of what we have got, rather than start completely from scratch. Contrary to what Mr Mitchell was saying, in a way it is sort of the opposite of self interest, it is trying to save money.

**Q117 Joan Ruddock:** We have heard already today that a lot of amenity sites just may not be up to the job, they may not have the capacity, they may not have the space, the skills, and so on and so forth. What needs to be done to ensure that, across the country at large, they can be set up in such a way as to deal with the Directive?

**Mr Hazell:** In a way, that is easy to answer. The ones that are capable of this should be capable of getting the planning consent and the licensing conditions to allow them to take this waste stream and to manage this waste stream, which includes a hazardous component, so the licensing and planning, if it were sufficiently responsive, could deal with a measure of this. We are not saying that civic amenity sites are the sole solution. If you have a single household and it is, say, a widow without a car, it is completely

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unrealistic to expect her to put a washing machine in the back of her car, and the Directive is quite clear that, as a country, we have got to provide alternatives. I think what our evidence is suggesting is there is something at the moment that works and probably there is more capacity there. One option for the Government is to make the most of that capacity.

**Mr Jones:** There are several thousand of these sites out there. Through Biffaward, we have funded a study that is being done at the moment by the Bristol grouping, an independent “green” NGO, looking at best practice on CA sites and analysing this in detail, and that report will be out in January or February. In essence, our vision is that within the next ten years there will not be tips or waste centres or civic amenity sites, they will be material depollution centres, and we are not having any discussion whatsoever out of these individual boxes. There needs to be a planning approach to these large, centralised facilities, which our company is looking at installing and is developing, and you will have tyres, you will have fridges, you will have contaminated soils etc. They will be like landfills above the ground, but this stuff will be being depolluted by a variety of mechanical, technical, thermal and chemical routes. At the moment we are not even anywhere near that debate. We are looking at each of these Directives serially and then coming up with a method to neutralise cars, and then applying a different philosophy for glass and a different one for plastic, and so on. These will be large factories, they will look like Tesco’s or Sainsbury’s warehouses to the general public, and they will be huge sources of potential employment. On our calculations, we need 20,000 to 30,000 extra people in our industry by 2020 to run these. Huge employment opportunities, and the kids that are going to be running these things are taking their GCSEs currently, because these are going to be needed to be running by 2015.

**Q118 Joan Ruddock:** I do not disagree with that future vision, but if you are in the inner-city, as I am, in my constituency in Lewisham, there is no way that the current civic amenity sites could become those factories. Planning constraints, licensing, none of it would work. What are the changes that you will need, because it will have to be a licensing regime, it will have to be in planning, will it not, if that vision is the one that is going to be realised?

**Mr Hazell:** There is that, but one of the reasons we supported your Bill—one of the reasons—was that if the Government went beyond the minimum requirement of this Bill and required segregated collection of electronic goods it could make life a lot easier for a lot of people. Also it would achieve an environmental outcome, because the Directive is quite clear, once there is separate collection that stuff has got to be treated properly and recycled. In addition there is nothing that we know of that the Government is doing to comply with the minimisation requirement in the Directive. The first priority is prevention, but if you get to Article 5, 5.1, on minimisation, there is nothing we know the

Government is doing with this. Actually, a broader version of your Bill would have dealt with that particular problem.

**Q119 Joan Ruddock:** If I may say, with your indulgence, Chair, I am very grateful for the support I received. It is now an Act of Parliament and I am delighted, but as you say there is much, much more to be done. The model that you envisage, first of all, clearly the future model is some way off, but in the meantime is it that it is going to have to be a mixture of collection systems, that no one system is going to do this? Would it be reasonable to suggest that the bigger companies ought to take in as much as they can by return, particularly where people are buying new goods, and that we should have a combination of local authority activity and big company activity?

**Mr Jones:** Very much so, and indeed I would include the NGOs in this process as well, because in fact they represent the best available route to quelling this huge public disquiet that is set off around these different technical options. Fundamentally, somebody is going to have to tell the public that we are moving from this low-tech, hidden approach, using large landfills, to what are going to be fairly high-tech processes. We and many of our competitors have got the balance-sheet strength to invest in these processes, provided our three requirements are there. The funding is not a problem but the location and the explanation will be. I would add just very quickly as well that it does need the manufacturers to be taken off the back foot, where they are resisting this process, and for the Treasury to be involved in this process. Currently they are looking at proposals to redistribute the incremental amount of the landfill tax, and these sorts of things should be on the agenda, to encourage a *quid pro quo* for taking that liability, but we do not want to drive those jobs out of the UK either, those limited manufacturing jobs.

**Q120 Diana Organ:** For all electronic and electrical goods, design is absolutely foremost, I would think, with their product development, either because of technological innovation, that you can have an energy-saving programme on washing machines, fridges and other white goods like that, or because we have discovered that now we can make televisions which are 20-foot long and absolutely flat and only as thin as a ten-pence piece, or whatever it is. How much evidence have you got that this Directive is driving through a change in design of electronic and electrical goods so that they become easier to recycle and reuse in an easier way? Have you seen any evidence of that, or actually have they gone about making them look flashier, more sort of satin stainless steel on them, and whatever, for the consumer? How much is this Directive driving design?

**Mr Jones:** In the short term, I would say, very little. It is just our apocryphal evidence. Certainly not as a waste industry. Most of this stuff is going into landfill at the moment. If we take a ten- or 15-year view of this then our belief is that what it will do, for different products, is drive the cost of those so-called

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externality costs back in. The flat-screen television possibly would not be marketed if, in fact, there were full depollution costs of those things, because at the moment no technology can take them. The trouble is, most of these companies over the last 30 years have evolved around a marketing focus, basically trying to commit and maximise the utilisation on expensive, fixed-capital investment in factories, and those factories have got to run at 100% output, or certainly at more than 95%, in a global market. What we are going to see with the whole thrust of EU legislation is that it is going to encourage manufacturers to look at product longevity. If consumers are involved in paying a lot more for their electricity, say, in ten years' time, then they are going to have to consider electrical efficiency and use, which is where most of the environmental burdens occur for both cars and electrical equipment. I suspect also it will start bringing manufacturers back into contact with consumers, because you will get this move towards product leasing. There are some interesting challenges in this for the retailers, who control that customer database currently, of course. If you are liable for your product once it is thrown away then inevitably you will start getting very interested in what is happening to the ownership profile. Maybe you will look to maximise your utilisation of a factory by selling transportation rather than just maximising your output of cars, so you can lease cars, from Ford or General Motors, or fridges and electrical equipment. That is a long way off, I agree, but that is where Government has got a role to govern and develop a conceptual, strategic message. What we have got actually in the waste debate and the resources debate is a lot of abdication of responsibility and the casting into the individual market sectors of so-called consultation processes over arcane and irrelevant detail. It could not be worse.

**Mr Hazell:** I agree with what Peter said. I think the examples he has given are exactly the ones I would have given. The examples he has given underline the importance of an idea he has put forward in a different context, which is our having and the regulator having real-time knowledge of material flows in the economy, because there is some hazardous stuff in some of this electrical stuff and we all ought to know where it is. I would be a little bit more optimistic than perhaps Peter was suggesting for the long term. If you look at the European Union market, it is such an important market in global terms that if you take this type of Directive in the European Union together with the European Union's chemical policy, REACH, I think it will help to make the rest of the global economy more sustainable. Precisely the arguments that Peter was giving about mobile 'phones will mean that if they are going to sell mobile 'phones in Europe, for example, ten or 15 years down the road, they are going to have to last for two, three or five years, instead of falling to bits after one year, and they will have to do that all over the world.

**Q121 Diana Organ:** Actually that is contrary, if you like, to the whole system we have got of the consumer capitalist society. My grandma used to

say, "They used to make things to last," and now the whole point is that you do not want it to last, the design is upgraded so that one day you might buy this kind of toaster but within a year you need to have that kind of toaster. That is the whole thrust, is it not, of electronics marketing and electrical goods marketing?

**Mr Hazell:** It has been, but, with respect, it is very clear from the Directive what they are trying to get to. They are trying to get to products that have longer life-cycles, that are better for the environment while they are being used. They are going to have to change their act on marketing, and it is going to change the structures of some economies outside the European Union. I think the positive side is that the European Union market is so important as a global market it can help to drive global environmental standards.

**Q122 Diana Organ:** Have any of these producers come to you and asked for advice about how they could make their product more recyclable or more straightforward to reuse?

**Mr Jones:** Certainly I am aware that a number of the major car and electronic manufacturers, in terms of consumer white goods, have been thinking about this and looking to the lease-based economy, because they see it as an element of their competitive edge. I think most of these manufacturers know that the world 2010-plus is going to be rather different and that they have got to move away from selling products and they have got to get back into selling utility and need. I agree that it might be rather difficult to justify that in the case of a toaster or a hair-dryer.

**Q123 Diana Organ:** I can see it in a car, a lease-based economy, but I find it very difficult in shavers, hair-dryers, all those electrical goods, mobile "phones, all those sorts of things. Are we going to lease a shaver and a hair-dryer? I do not think so.

**Mr Hazell:** The western economies are getting more prosperous and a sign when people get more prosperous is that they tend to buy better quality. In a way this Directive is driving that, but the obligations in this Directive are quite clear, producers are going to have to make better stuff that is capable of longer use and is better to the environment while it is being used. It is up to the Member States to do a reasonable job of implementing it.

**Mr Jones:** We are pumping in, in the case of consumer goods, about only 1% by mass that is retained at the end of a 12-month cycle, when you relate that back to the amount of physical resources our economy is consuming. We are not suggesting that zero waste is a realist concept, but an attitude of mind. I do not think you will ever get an economy with no waste. Certainly I think this idea of just managing this whole process and getting 1% left at the end of the year, (and maybe 8 or 9% in the social capital stock in terms of extra roads and hospitals) but a 10% resource-efficient economy? We will not be able to do it, as a species. We have got people building cities the size of Sheffield in China about

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every six weeks. The world will not take it. Those manufacturers are going to have to do something fairly radical, and it may be that you have a huge refurbishment activity and that those razors do go back and they get refurbished and they go to different markets. I think there were ethical issues around what we were doing with fridges to Africa, and ultimately when the African nations disposed of them you still had the global-warming problem. I think that we will start doing that among different consumer groups within our own economy and between national economies to manage this process of product obsolescence that the Japanese have perfected so well. Ironically, it is the Japanese that quite often are in the forefront of this process. They have realised (having maximised their marketing skills and obsolescence strategies) that is no longer the case. If you look at Japanese car manufacturers, to move to the standards that are going to be in place by 2020, it is going to cost the Japanese about 5% of the cost of the car. In the case of American car manufacturers, it is as much as 50, 60%. This is a question of survival for many of these manufacturers. Those that have left it a bit late are going to have to get back on track.

**Mr Hazell:** On a slightly different dimension, the one issue where I would not agree with the retailers' evidence earlier, is that actually the recycling and reuse of various types of waste stream is working in countries like Belgium and The Netherlands. I do not know how much time the Select Committee has got, but we would be more than happy to show this Select Committee infrastructure that is working in those countries. The fact is, Members of ESA are delivering this in countries like Belgium and The Netherlands: it is working.

**Q124 Chairman:** I will stop at that point and ask you to talk to the Clerk. There may be an opportunity in January to do that.

**Mr Hazell:** We can do that easily, yes.

**Q125 Chairman:** Can we turn from the kind of future discussion to some fairly mundane, present-day discussions and recent-past discussions. Dirk, your Association are key stakeholders in this. What are the discussions that you are having presently, in the recent past, with whom in Government, about this Directive?

**Mr Hazell:** Not a lot. I do not think I can say honestly we have any engagement at all with Defra at the moment on this particular subject. DTI did inform us of the amendments to the draft Directive as it was going through. I am afraid, it is the same old story that this Committee has heard many times before, and it bears no relation at all to the words of the Better Regulation Taskforce recommendations in the summer. The Better Regulation Taskforce is an ambition beyond reach, at the moment.

**Q126 Chairman:** Let us take that just a little bit further. There is a second consultation coming out fairly soon. What is the shape of that, what knowledge have you got of it?

**Mr Hazell:** Peter may contradict me, but I get the sense that the retailers know more about it perhaps than we do. I do not think we are regarded as heavy hitters in this particular debate. It is an issue that the Government must address, because if we are signing up to this new environmental agenda the shape of the economy has got to alter, and we do have to move on from the Steptoe and Son image of this industry. We are already a serious industry.

**Q127 Joan Ruddock:** This follows I think from what you have just been saying, that you have had a lack of contact. Do you think there is any significance in what we said about the lack of industry experience amongst the civil servants who might be in dialogue, or not, as the case might be?

**Mr Hazell:** Yes, there is. At one time I was a civil servant at the Department of Trade and Industry. I have represented also another sector of the economy, and I find it very difficult to relate this industry's experience with central Government to either of those previous experiences. There has been a lot of turnover of staff. It is much too early to be critical of the present generation of officials at Defra, but one does not generally get the sense that waste management is the place to be if you are a high flyer. I find it difficult to understand, because actually it is achieving a revolution, or should be achieving a revolution, in domestic policy. Particularly with the next generation of European environmental stuff, which is really trying—really trying—to align economic and environmental outcomes in a much better way, it is conceptually more interesting than ever you could imagine waste policy would have been. In terms of the concepts it is trying to bring together, it is a really interesting area of policy, but you do not tend to get terribly well-motivated civil servants, and it is not just a personal thing: the structure of Government is not allowing them to deliver. Certainly I do not see it as a party political issue, I think there is an issue across the political front of the need to get a more serious approach to implementing environmental laws. It is not for nothing that this country has until very recently been at the very bottom of the European league in terms of the transposition of European Environmental laws. When it comes to implementing, we are probably at or near the top, once the laws are in place. Our regulator probably is stricter in practice than anything on the Continent, and there is merit in that, but really the UK is making so little progress, and it is heartbreaking, because we have an opportunity to build a new industry in this country.

**Mr Jones:** All I would add to that is the need for those civil servants (and I do not think Defra have got the money for it) to be basing sound policy on harder data. In all of our submissions, for all of these products, we have suggested that we should be looking, as Dirk indicated, at an online-based data capture system, run by the Environment Agency, so you can see exactly where this product is moving through the back end of the supply chain. We have written separately to the DTI, and I can let you have a copy of that, about the tyres issue, where it would be relatively simple in terms of Retail



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establishments. It is an area where the risks of dumping could be quite significant. If you have got any companies, big or small, in this reverse supply chain then you should be looking at a double-entry system where you can corroborate that. What A says he sent to B, B confirms it, not to A but to a higher authority, so very quickly you see these discrepancies, where somebody is accumulating lots of fridges and lots of income, say, or tyres, and magically not getting rid of them anywhere because nobody else is owning up to taking them off them. Really we do need this sound infrastructure and debate. I get letters from civil servants saying they cannot see the point of it.

**Q128 Joan Ruddock:** That aside, can I say, both of you are very good at making your industries sound absolutely fascinating, there is no doubt about that, and I have had that experience myself. I wonder, what can you do for the civil servants, do you offer them secondments, or direction, what sorts of things can you do to try to help them?

**Mr Hazell:** We have had for a number of years quite a successful secondment scheme of Environment Agency staff to our Members' facilities. We have just got the first temporary secondment, I think, of two industry staff to Defra, which is good. The other thing that is very, very positive, because I have been negative, about the British Government's approach is that it is leading in Europe on market-oriented solutions, and clearly that is the way ahead for the European economy, to get environmental outcomes in an affordable way. Again, what I do think they could do is work much more closely with the industry people who understand these in a way that they do not. We do encourage secondment, but we proposed it first two years ago and it has only just happened.

**Q129 Mr Mitchell:** I think we benefited from Peter Jones's very direct views before. I take it you have not been a civil servant?

**Mr Jones:** No.

**Q130 Mr Mitchell:** It shows, if you do not mind me saying so. Just to follow Joan's point, I wonder if there is not a difference of culture here, because the Civil Service culture is really to evade responsibility, pass it on to somebody else, get rid, whereas your culture, commercial culture, is to grab it for a fee. I would imagine, therefore, there is suspicion on the part of the Civil Service that you are in it for the money, which of course you are?

**Mr Jones:** Absolutely. I never duck that. You are familiar with "this", and we have priced it all up, and we are saying that somebody in Government has to accept that you can get to the Promised Land for about £5 billion a year. That is what the extra turnover is going to be for our industry. I agree, that is a perfectly natural reaction, "Well, they would go for all this stuff." We are a regulation-driven industry. If we never had any environmental regulations then I would not be here, Biffa would be a rag-and-bone outfit. Without regulations, we would cease to exist, so we are regulation-driven. We

are not writing these rules, we are not signing up, we are saying, "If you're going to sign up to these aspirations then let's put our names on the line for what it will be. Let's protect the interests of society by making sure that there is an open, competitive process." You can do that through generally large contracts for extended periods of time, that is how the consumer gets the best value because there is greater certainty. Secondly, you do it through data and transparency that is in the hands of somebody like the Environment Agency that is an arm of Government. Thirdly, you do it through organisations like the Office of Fair Trading, and indeed the Best Value Taskforce, and those sorts of mechanisms. What the civil servants get obsessed with, which annoys us as an industry, is they keep telling us how the solution is going to look. We say, "Look, we will look at that in the context of the risk. You tell us what outcomes you want and we'll take the risk. If we think the risk is too great we'll tell you why we're not going to invest." They want to tell us how to do it all the time. We are pretty good at that. All we want to know is the outcomes, what we are going to get paid, who is going to pay and who is going to make sure that no charlatans come along and undercut us. We do not mind competing on a level playing-field with anyone, but we want a level playing-field.

**Q131 Chairman:** You mentioned the EA. Are they equipped to do this work? You are being a bit disparaging about civil servants generally. How do you rate the EA in these matters?

**Mr Hazell:** I think Peter has said it already, in a way. I think, sometimes out of frustration, perhaps sometimes out of ambition, the Environment Agency has been trying to fill a vacuum that has been left in the heart of Government, in terms of policy-making. Undoubtedly there is some frustration, some of which must be justified, between Defra and the Environment Agency, about who is responsible for what. I think what Peter said I would agree with: if you get to an outcome where the regulator regulates and the Government forms policy, we know who is responsible for what. That is better for all of us, and also you get better-motivated people doing it all, because people know what their job is and they know what they are accountable for. At the moment it is still a bit of a muddle.

**Q132 Chairman:** So the EA are filling a policy vacuum, whereas it would be far clearer if there were proper regulators, and I think you make a point about being equipped to do the job, having the resources to do the job?

**Mr Hazell:** I do not know myself whether the Environment Agency has had too much or too little resource, but what I can tell you is, as a detail to supplement what Peter said, the Environment Agency has spent about £5 billion of public money, and, as of today, it does not really know exactly what it is regulating, in terms of waste. That gives you an idea, in terms of the priorities. They have got a lot of other responsibilities, flood prevention, rivers, all that. I am not saying the Environment Agency is

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overfunded. All I am saying is that you have got something that has had £5 billion of public money and it has still not even really got quite basic data on the waste it is supposed to be regulating. If it has not got the data, how can it possibly know what it is supposed to be doing as a regulator, because the first thing is, if you are a regulator, you have to know what you are regulating?

**Mr Jones:** In fairness to the Agency, the impression I get is that the Treasury are not giving them the funds to put in this data and knowledge network. If we had this keeper, or sentinel, at the gate, (that is an amalgam of the waste people in Defra and the Agency) that just set standards, I think the Agency is trusted by the NGOs and by the general public—they see them as an independent, arm’s length organisation. They can call in, through the PSRC and all the various academic bodies, a wealth of technical knowledge that they can draw on. Effectively they should be in the position then of giving “producer responsibility” policy, development and enforcement by the due date to the DTI, and saying the same to the ODPM. Both of those latter organisations at the moment take it or leave it because they know that the can will stick in Defra and not in their particular bit, if it goes pear-shaped. Those bodies, certainly ODPM and DTI, need to be shaped up. This is a tremendous opportunity for the UK. It is about lots of jobs. Technically, it would be in our industry, if you like, but it is about lots of jobs. We are one of the few countries in Europe that has got scale of population, a big capital market that could finance this process in the City, that is desperate for new funding opportunities. It is the one industry that is unlikely to be exported to China, like steel and cars, and everything else, where we have got to sort this out on our own doorstep. This is about a big industry sector that could expand quite substantially on our doorstep. We have got a good knowledge base, we have a strong academic base, a strong education base, to feed this, and yet at the heart of Government, in the Cabinet, there does not seem to be this preparedness to see this as an opportunity and actually give it the funding that it needs.

**Q133 Mr Mitchell:** I think that is a sad reflection. We have had the jobs making it, now we create the jobs dumping it, or disposing of it. However, let us press on. I want to put to you a question about lessons to be learned, which I put to the retailers beforehand, and it is very straightforward. From your perception, from what you have seen, how far is it true to say that Government has dragged behind on this, regarding it as a kind of painful imposition and it would rather not bother, and it is reluctant and negative rather than seizing a positive initiative on this kind of regulation?

**Mr Jones:** I suspect, in the Cabinet, towards the environment generally, that is probably an apt description, frankly. If you look at the problem with the petrol approach, we were on the verge of significant civil disobedience, which no government

wants. I think, as a result, this whole thing labelled “environment” and the Directives that flow from it seem to be best avoided. At worst done, by preferably leaving it to Defra to take the hit if it all goes wrong. Which is a pity, because handled properly, on an open dialogue between the manufacturers, Government, the waste industry and the NGOs then it could be a lot less painful and more straightforward.

**Q134 Mr Mitchell:** It is also a question of culture and approaches. We are spending a lot of time now arguing for lighter regulation and saying “We don’t want to impose regulations.” The CBI is complaining they are overregulated, overburdened, put on totally, as if they are sort of hung down and the spirit of enterprise in Britain is shackled by all that regulation, so naturally Government wants to minimise regulation, so far as it can?

**Mr Jones:** Which will be great, because in Europe what happens is that their governments say to the WEEE supply chain or to the automotive manufacturers, “That’s what you’ve got to do by that date, and you’re going to do it.” What we do here is go into massive discussion about detail, where basically Government or the civil servants hope, as they were saying recently, that it is down to industry to sort this out. There is no leadership. In Europe, it is unequivocal. “There’s the date. Go away and have a discussion, or we’ll facilitate discussions between you, and come back with a solution,” for Belgium, for France, or for Germany. As a result, of course, those are the people that have got the first mover advantage, and when eventually we get dragged, kicking and screaming, to implement this and the waste industry sees that it is going to be worth our bottom lines investing, what equipment are we going to buy? We are buying German, French, Italian, Swedish, Swiss equipment, because they do not mess around. They have said, “Look, these are the outcomes we want and those are the dates. We’re not going to tell you how to do it. You come back with the proposals.” Ultimately, governments over there govern, and in the environment area I just sense that here, through the complexity of the issue and its newness, there is a marked reluctance really to grasp that nettle.

**Mr Mitchell:** I think that is a good note on which to end.

**Q135 Chairman:** Thank you very much. I think you were going to talk with us about possibly seeing us, I think, in Brussels. Then you promised to send us two or three bits of information?

**Mr Jones:** Yes. I have got a sort of slide, but I will expand on the ratio of the incremental cost for different products in the stream, with regard to different products.

**Q136 Chairman:** Then a note on this notion of a big plant which takes in different streams?

**Mr Jones:** Yes, the big regional plants.

**Chairman:** Thank you both very much indeed. That is very helpful.

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## Monday 8 December 2003

Members present

Paddy Tipping, in the Chair

Mr David Drew  
Mr Austin Mitchell

Joan Ruddock  
David Taylor

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### Memorandum submitted by the Local Government Association (E20)

#### PRODUCER RESPONSIBILITY GENERALLY

1. In transposition of producer responsibility Directives, an issue for local authorities has been a lack of clarity on who is responsible—and specifically financially responsible, for the recovery of materials for recycling. Too often in transposition the financial responsibility for recovery does not fall clearly upon the producer. The consequence is the legislation is less than effective in terms of the “polluter pays” principle: if the polluter does not pay, the polluter will continue to pollute.

2. Definitions have been an issue and Government needs to be clearer on terminology. In particular, “recycling”: this should be the entire process: collection, sorting, reprocessing and/or manufacturing. Currently elements of the definition apply differently to different legislation. Local authorities have “recycling targets”, but in reality collect materials to be sent for reprocessing. Companies have recycling obligations under packaging legislation, but appear only to be financially responsible for the non-collection elements of recycling.

3. While local authorities have been consulted throughout, and have sent clear messages on the basis of the comments made above, there remains concern that the full cost of compliance will not be placed on producers in transposition of WEEE and ELV Directives, and that the principle of producer responsibility will not be properly applied.

4. Long lead-in periods are essential for complex regulations to facilitate proper planning. A clear programme with milestone dates would remove uncertainties and enable better planning.

5. It is important that Defra has appropriate internal support to provide guidance on legal issues and review out dated and conflicting legislation.

6. There remains a need for improved co-ordination between Defra and DTI.

#### WASTE ELECTRIC AND ELECTRONIC EQUIPMENT

7. While it remains to be seen what the final proposals are, local authorities remain concerned that producers should be made responsible for the whole cost of recovery.

- Local authorities have made clear that there must be no obligation placed on local authorities for separately collecting WEEE (as effectively happened with packaging).
- Further, the system which is put in place must provide a financial incentive for local authorities to separate out WEEE where they are the only organisation which can do it effectively (eg via a kerbside collection, bulky goods collection, or CA sites), and there should be a clear method for industry to fund this.
- Local authorities should either be directly funded (via the producer, and not via the tax payer—if the producer responsibility is to apply properly). Allowing local authorities to be able to charge for the sale of separately collected WEEE material may reduce the amount of direct funding required.

8. *Definitions.* The “point of collection” definition has created difficulties here. If the point of collection is not the household, but some central collection point, then producers may only be obligated from a central collection point and not the household: if that is ultimately what happens, the producer would—once again—not be paying the full cost of recovery. If local authorities, via the tax-payer, are financially responsible for the separate collection of WEEE, once again the polluter pays principle does not apply.

#### END OF LIFE VEHICLES (ELVs)

9. Although local authorities and industry had a good idea from the consultation what would be in the regulations—there were no detailed requirements set out prior to the ELV regulations coming into force and this has created some potentially costly problems. Waste Disposal Authorities could now find themselves in difficulties because dismantling contractors have held back because they did not want to invest in

something they may not need. There is potential for local authorities' contractors not being compliant with the regulations. The result will be increased costs, because eg instead of having four contractors an authority would only have one to chose from.

10. The LGA recognises that Government is acting to ensure local authorities and the DVLA system are equipped to deal with a potential increase in abandoned cars as a result of the transposition of ELV Directive. However, there remains considerable concern that the scale of vehicles being abandoned will be higher than expected because (a) the Continuous Registration may be circumvented and (b) responsibility has been placed with the final owner of the car, and due to the rising cost of disposal, owners would be more likely to abandon than dispose of responsibly.

11. We therefore have further concerns regarding the sums made available under new burdens, and consider that this should be kept under review.

**Packaging** (not the immediate focus of this investigation, but issues are related)

12. Currently an anomaly in central policy means that an obligation has been placed on producers for the recovery of packaging and local authorities have Statutory Performance Standards for recycling/composting which means the two target the same waste. The result is that local Council Tax payers are meeting the cost of the collection of packaging materials and producers (or, specifically, obligated companies) do not pay the full cost of recovery. To increase pressure on producers to reduce the amount of packaging in their products, the LGA would strongly urge Government to:

- (a) Make clear to industry the intention that, in future, no obligation will be placed on local authorities by Central Government to collect packaging waste for recycling;
- (b) Assist industry and local government in coming together to develop a clear system for transferring funds to local authorities to collect packaging materials for recycling—where it is sensible and appropriate that they do so.

13. *Definitions.* Recycling is the entire process: collection, sorting, reprocessing and/or manufacturing. Currently elements of the definition apply differently to different legislation.

28 October 2003

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*Witnesses:* **Mr Julian Lucraft**, Abandoned Vehicles Project Co-ordinator, West Sussex Council and **Ms Alice Roberts**, Executive Manager, Waste & Environmental Management, Local Government Association, examined.

**Chairman:** Can I welcome Julian Lucraft, Abandoned Vehicles Project Co-ordinator at West Sussex Council and Alice Roberts, the Executive Manager of the Waste and Environmental Management at the LGA. Thank you for coming. We want to talk to you about two topics, the two directives, End of Life Vehicle Directive and the WEEE Directive, but we will try and keep them separate. There are common themes which run across them but we will keep them separate to begin with. We will start with the End of Life Vehicle Directive. David?

**Q137 David Taylor:** Thank you very much, Chairman. I, like many MPs who have substantial areas of semi-derelict land in their constituency close to highly built-up areas, am suffering from the scourge of abandoned vehicles. I think this question is probably to be addressed to Mr Lucraft. In the evidence which the LGA submitted, paragraph 10, it says, "... there remains considerable concern that the scale of vehicles being abandoned will be higher than expected... due to the rising costs of disposal." What evidence is there to bear that out? It seems an assertion rather than a conclusion. Do you think it will lead to an explosion of illegally abandoned vehicles?

**Mr Lucraft:** Quite possibly, yes. Essentially if the cost of depollution is greater than the revenue which a dismantler can receive from scrap metal, or whatever parts he can get out of a vehicle, then what

will happen is you will find this vehicle is abandoned rather than taken to a dismantler, so it is quite possible we could see a large increase in the number of abandoned vehicles.

**Q138 David Taylor:** Is there some hard evidence which shows some correlation between the increasing cost of disposal and the level of abandoned vehicles?

**Mr Lucraft:** To a certain extent, yes, in that over the past few years with the increasing amount of environmental legislation and the reduction in the price of scrap metal, we have seen an increase in the number of abandoned vehicles, so there does tend to be a direct correlation between scrap metal, environmental legislation and the number of abandoned cars.

**Q139 David Taylor:** What proportion of vehicles at the end of their lives do you think are illegally abandoned in this way? Approximately. There must have been an assessment made.

**Mr Lucraft:** There is. I will use some West Sussex figures, if I may. We deal with essentially about 30,000 vehicles per year, which are vehicles which have reached the end of their life. Those which come through the Council system as abandoned are approximately 5,000. What could happen is that with the spare 25,000, if the cost of depollution goes up, we could see an awful lot of those transferring into the abandoned vehicle route.

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**Q140 David Taylor:** If this predicted explosion does in fact take place in terms of the number of illegally abandoned vehicles, speaking now for the LGA rather than your own local authority, do the local authorities have the capacity and the resources, both financial and otherwise, to handle these sorts of numbers?

**Mr Lucraft:** Certainly not financially. If the explosion comes, then they will not be able to cope with it, I would say. With regard to resources on the ground, for instance industry capacity, there may be, but it depends on how quickly contractors bring themselves up to speed and how quickly local authorities are able to let contracts to responsible contractors, those who have become authorised treatment facilities.

**Q141 David Taylor:** Where do the LGA think the cost of all of this should lie? It is going to be more costly, is it not, and there are substantial problems with that? If you believe it should lie more with the last registered owner of the vehicle, how are you going to enforce that?

**Mr Lucraft:** I do not think we would say that the cost should lie with the last owner. I think we would say it lies with the manufacturers. That is the purpose of this—

**Q142 David Taylor:** Pre-2007?

**Mr Lucraft:** Pre-2007, I do not think there is any other way apart from asking the local authority to pay for an abandoned vehicle. Therefore the money needs to come from Government.

**Q143 David Taylor:** You are making that point quite vigorously, are you?

**Mr Lucraft:** I think so, yes. Local authorities are unlikely to have the money to be able to deal with the number of abandoned vehicles.

**Q144 David Taylor:** Have you been specific on behalf of your members with the scale of extra finance needed from the centre?

**Mr Lucraft:** I will switch over now because I believe some calculations have been done at the LGA.

**Ms Roberts:** I am not aware of central figures for abandoned vehicles, although clearly there is already some provision which has been made. I suppose the question is whether this should be financed through new burdens, and also the question of how we maintain a knowledge of how many vehicles are being abandoned and how it is increasing and how those costs are met as that happens. One of the things we will be doing is to survey local authorities initially to try and keep track of that ourselves, so we can make that case centrally.

**Q145 David Taylor:** There are actual dangers, are there not, with the increasing number of abandoned vehicles, which I am sure are leading you and your members into discussion with the Environment Agency, DVLA and others. What is the nature of any discussion you have had? Do you believe they are up to the job of dealing with the problems you identify and what measures have they taken?

**Mr Lucraft:** Are you saying are the DVLA up to the job?

**Q146 David Taylor:** First of all, what type of discussions, if any, have you had between the LGA, DVLA, Environment Agency and others about the physical dangers of the greatly increased numbers of abandoned vehicles?

**Mr Lucraft:** At a lower level there have been several discussions. At a higher policy level, I am unsure.

**Q147 David Taylor:** Is that an answer on behalf of the LGA as well?

**Mr Lucraft:** I am not sure, I am sorry I cannot answer for the higher echelons of LGA whether they have had discussions with the DVLA.

**Q148 David Taylor:** So individual authorities talk to their regional offices, or whatever it might be?

**Mr Lucraft:** Yes, most definitely.

**Q149 David Taylor:** You are not aware of discussions at a higher level. Ms Roberts, are you aware?

**Ms Roberts:** I am afraid I am not aware at the moment but I can certainly report back.

**Q150 David Taylor:** How confident are either or both of you that this serious problem of illegal abandonment will cease in 2007?

**Mr Lucraft:** I do not think it will cease. I think the system of continuous registration that the DVLA are proposing has a potential flaw, and it is possible to circumvent it, let's put it that way. I do not think in the public circumstances I am in now I should tell you how, but essentially it is possible to circumvent the continuous registration.

**Q151 Chairman:** You will write to us on that point, if you do not want it on the record?

**Mr Lucraft:** Yes, certainly.

**Q152 Chairman:** Can we go back to the cost question. I think you are both saying to us fairly clearly there is going to be an extra cost on local government, local councils for doing this. Clearly there needs to be some discussion with Government about it, but I am surprised there is not a figure around the table today. Have West Sussex done some calculations? What do you think your costs are going to be?

**Mr Lucraft:** They could be anywhere between half a million and £5 million.

**Q153 Chairman:** A year or in total?

**Mr Lucraft:** A year. We just do not know. First of all, we cannot say with any great accuracy what the number of abandoned vehicles is going to be. We cannot say with any accuracy what the cost of depollution is likely to be. So if we have a cost of anywhere between £50 and £150 for depollution, depending who you speak to in the industry, we would have a real problem there in that we cannot budget for a 200% variance.

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**Q154 Chairman:** What are you carrying in your budget for the current year?

**Mr Lucraft:** For the current year we are carrying £1 million.

**Q155 Chairman:** Just going back in time, has that built up to £1 million and from what?

**Mr Lucraft:** I am not aware of the past historical figures, I am afraid, but, yes, it has been ramped up quite significantly in order to be able to deal with it.

**Q156 Chairman:** Has the LGA been talking to the Government about the cost?

**Ms Roberts:** I am aware we have a figure in the settlement for last year, but I would have to write to you on the discussions we had before then.

**Q157 Chairman:** Is this seen as a tough issue for local councils? Are you lobbying on this?

**Ms Roberts:** It is seen as one amongst a very large number of very, very difficult issues. If you set it alongside the rising costs of collection and disposal and the funding gap which is there, then we have a huge concern about funding in the next spending period.

**Q158 Mr Mitchell:** That cost seems a bit conservative to me actually, I am not sure how you arrived at it. The costs of reporting them, which needs some council official or local official it can be reported to, the cost of towing them away and then the cost of putting in pounds and the cost of dealing with them at a time when scrap metal prices are fairly low, have you arrived at that figure on the basis of what is happening now?

**Mr Lucraft:** The £50 to £150 is purely for depollution. The actual cost to West Sussex can be in the region of £360 per car. That takes into account your complete scope of cost with regard to officer time, the fire brigade turning out, the police turning out, repeated reports of an abandoned vehicle and its moves, so you can make two or three visits to a car. On average the cost to West Sussex as a whole, as a county and as a waste collection authority, can be about £362.

**Q159 Mr Mitchell:** How many local authorities have pounds where they take them? I remember there was an experiment in Lancashire where they were taken off the streets in two days, as opposed to letting them sit around for a week, and put in a pound. When I tried to get such a thing in North East Lincolnshire the local authority said it did not have the money for a pound.

**Mr Lucraft:** A lot of local authorities have difficulties with finding land to use for storing cars. If they can, they prefer to use a brownfield site but then you have issues with security, making sure the vehicles cannot be pinched and what have you, so there tends to be a general reluctance with regard to providing a pound when it may not be necessary. You can put a notice on a vehicle and then return to that vehicle, take it away and take it straight to the contractor's compound for destruction.

**Q160 Mr Mitchell:** Is there any information on what proportion of them are fired? I do not know whether it happens in the more gentile parts of the country—

**Mr Lucraft:** It does!

**Q161 Mr Mitchell:** The fire brigade have been complaining to me that a lot of them constitute a danger because they just get ignited, not just smashed up with glass all over the place but set on fire. Do we know how many are fired, or what proportion?

**Mr Lucraft:** Off the top of my head, I would have to write to you with those details. As an estimate, I would say approximately 5 to 10% of abandoned vehicles are being set on fire, but it is a big concern for the fire brigade. Within West Sussex they are partners to a scheme which brings together the police, the local authorities and the fire brigade called "Operation Crackdown", and that essentially can remove vehicles—because it uses police powers—within however short you want to make the period really. I have heard that there are various schemes like this popping up across the country so vehicles can be removed quickly so they are not set fire to, especially those within higher risk areas, so you can say, "That is high risk, we will take that one more or less instantly."

**Q162 David Taylor:** I am not sure whether West Sussex is typical of the UK, but do you have any assessment of what proportion of the abandoned vehicles have been stolen and what proportion have been abandoned by their legal owners?

**Mr Lucraft:** I am sorry, I do not have those figures.

**Q163 David Taylor:** It seems the sort of thing which would be a natural requirement, to assess a sample of vehicles and pursue them rigorously and vigorously to see what the scale and nature of the problem is. Has it not been done in West Sussex, not been done nationally?

**Mr Lucraft:** I would say, yes we have the statistics, but I cannot quote them to you now.

**Q164 David Taylor:** Could you let us know in writing after our meeting?

**Mr Lucraft:** Yes. Operation Crackdown actually does compile that sort of statistic, along with average removal times and various other pieces of data which are useful to us.

**David Taylor:** We look forward to that supplementary evidence.

**Q165 Chairman:** The ELV Directive has been delayed, it is not on its time track, and you say in your evidence this has proved costly. Could you explain that to us? What do you mean?

**Mr Lucraft:** Costly in that local authorities essentially have to dance to this unknown tune. We do not know how we are going to be able to let our contracts to be able to deal with abandoned vehicles, so in some areas we are just extending, extending and extending, and possibly not obtaining the best value. But we are caught in a Catch-22 scenario whereby we are not able to let efficient contracts because we

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do not know what is required of us, but by the same token we have to have something in place now, the buck stops with the local authorities, so what do we do.

**Q166 Chairman:** What timetable are you working on? When is it all going to be clear to us all?

**Mr Lucraft:** I think I should fetch my crystal ball at some point.

**Q167 Chairman:** Give it a try! I have to say mine is remarkably cloudy on this!

**Mr Lucraft:** I would say that the whole of the industry is remarkably cloudy on this. We, West Sussex, were intending letting contracts sometime in November 2004, however we are now thinking that maybe it is wiser to sit and wait to see what happens with manufacturers' contracts. The reason why I comment on that is because we may now let a three or five year contract to Contractor X and then we find Contractor Y wins the manufacturer's contract, so we cannot take advantage of free depollution. So it is unwise for us at the moment to let the contract to this body when that body may be able to offer free depollution in the future.

**Q168 Chairman:** Who is driving this process forward?

**Mr Lucraft:** I would have to say that it is the manufacturers, in that they are determining, or are likely to determine, who they let their contracts to and therefore there could be a problem for us as to whom we let our contracts to. I also feel when it comes to the free take-back system, we do not know what is going to happen. So all in all I would say that despite the best efforts of Government to push this forward, I think it is the manufacturers who are calling the tune.

**Q169 Chairman:** Should it not be Defra, the DTI? They are setting the policy, are they not?

**Mr Lucraft:** Yes, I would agree, but I suspect there are various elements. If you are the DTI and you are discussing with manufacturers, then they have such an enormous power I feel that they are calling the tune.

**Q170 Chairman:** Who are you talking to locally and, if at all, nationally as the LGA? This Directive is coming on, you want to know what is happening, there seem to be a lot of players here; leaving the manufacturers on one side within Government there are a lot of players.

**Mr Lucraft:** Yes.

**Q171 Chairman:** Who are you talking to?

**Mr Lucraft:** I am talking to the DTI, Defra and the EA.

**Q172 Chairman:** Are they all saying the same thing to you?

**Mr Lucraft:** More or less.

**Q173 Chairman:** What is that?

**Mr Lucraft:** The DTI were saying in the lead up to the legislation coming out, "Yes, it is coming out and Defra will be issuing some guidance as to how to comply with that legislation." So of course you then ring up Defra and say, "Where is this guidance?" and they say, "It is coming." True enough, it came out but after the legislation came out. So, yes, they are singing from the same song sheet on guidance.

**Q174 Chairman:** But not on timetable?

**Mr Lucraft:** I would say that the DTI knew that the Defra guidance was going to come out after the legislation, yes.

**Q175 Chairman:** Would it have helped if you, at the sharp end, had been involved in these discussions earlier on?

**Mr Lucraft:** Most definitely. We would have liked to have seen the LGA a lot more involved in setting the policy steer on this rather than just picking up the details afterwards. Yes, the LGA has been consulted via public consultations and what have you, but it would have been useful if the DTI was not so industry-centric and actually was to consult with us in greater detail.

**Q176 Chairman:** Can you remember when you first became involved in discussions about this?

**Mr Lucraft:** I would have to say that that was about a year ago, 18 months ago.

**Q177 Chairman:** But the run-up to the Directive was longer ago than that.

**Mr Lucraft:** Yes, but there are other circumstances within West Sussex—I have only been there for the last 18 months, so as soon as I came into play I started talking to them.

**Q178 Chairman:** But as a general rule, you think local councils on waste issues ought to be involved earlier whilst the Directives were being put together?

**Mr Lucraft:** I would say so, yes.

**Q179 Joan Ruddock:** I want to turn to the WEEE Directive, which I think people acknowledge is a bit hazy on who is going to pay and how it is all going to be organised, especially collections from households and civic amenity sites. You may or may not be surprised to learn that when we heard from the retailers they were very keen to see local authorities continuing their very important role in this respect, but your evidence says that producers should be made responsible for the whole cost of recovery and there should be no obligation placed on local authorities for separately collecting WEEE. I want to ask you to what extent you think local authorities will continue to play a role in collecting WEEE and who should fund local authorities if indeed you are to play a continuing role in that collection?

**Ms Roberts:** We are very clear that producer responsibility should mean exactly that. That means producers should be financially responsible, the

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reason being if there is any move away from that, that weakens the policy instrument to the extent that it is not an effective tool at either reducing waste or encouraging recycling. The issue of local authority infrastructure is one we wanted to make some points about. There are a lot of assumptions made about what the existing infrastructure on the ground can cope with and can do, and this needs to be seen in the context of not simply the WEEE Directive but various existing issues, notably things like packaging, separate collection of organic waste or biodegradable municipal waste to take that away from landfill, batteries which is an up-coming issue, and that is probably just the start of it. So if we say that what the future needs to do is to separate out a very large range of different materials and all products and we look at the infrastructure we have and we take an overview of that, then I think we start to get to what the real issue is. If we go back to something like WEEE, although there are authorities already separately collecting at CA sites, there are very large swathes of the country which do not have them and there are CA sites which are too small or will not be able to cope with them, so whilst local authorities are very much on board with the need to recycle and with recycling and would therefore encourage separate collection, firstly they need to be funded to do so and secondly thought needs to be given to the type of infrastructure which might be needed.

**Q180 Joan Ruddock:** Can I stop you there and try and separate out whether you think there is potential for collection from the household, where collection is either being done in boxes at the individual door or larger containers at the bottom of groups of flats which I define as household collection. First of all is there potential for continuing to do that or making it possible to do it where it is not currently being done, or, are you going to rule that out? Then we could look separately perhaps at CA sites.

**Ms Roberts:** I do not think our members would rule that out. What they would like to see is flexibility, and what they would like a recognition of is the fact that the existing infrastructure will not cope with what is coming. Local authority infrastructure alone will not cope with what is coming in terms of future directives and the future way of dealing with waste, once we start to think about hazardous waste and potentially thinking about separating out household hazardous waste, then we are looking at a very different infrastructure. If you start to look at the way other countries collect or work then you are looking at retailer take-back, collection of batteries in shops for instance, and that is completely out of the question now because of the need for a hazardous waste licence, and we need flexibility to create smaller sites which perhaps do not have a full CA site service, and I think the service issues are extremely important here. If you live in Hackney you have no CA site and may not even be looking at a kerbside collection and, in terms of service, you are not going to get a service from the existing infrastructure. I do not think we would rule out household collection or kerbside collection and

some authorities are doing that—batteries at CA sites and batteries at kerbside—but what we are saying is that that will not work throughout the country. The Waste Executive at the LGA have said fairly clearly they would not wish to come down on the side of specifically household collection or kerbside collection for things like batteries.

**Q181 Joan Ruddock:** Would you accept perhaps you are better placed than the small shop is? When you talk about retailer take-back, we as a committee would consider if we are dealing with the big stores that is probably possible, but if you are dealing with small individual shops would you accept their position might be rather worse even than the local authority position in terms of take-back?

**Ms Roberts:** I would have to give you a personal view on that rather than one which comes from the Executive. Quite probably that would be very difficult, particularly if you had to apply for a hazardous waste licence. In terms of profile and what larger retail outlets or chains could bring to the profile and to the awareness issues—and that is another key issue—it is probably more likely and more helpful that those places were involved. Indeed some of them are already doing things and having collection days, bring back days and things like that. So there is an acceptance but there is also a very clear feeling out there still that local authority infrastructure will and can cope with what is needed. The clear message we want to give today is that is not something we feel is the case.

**Q182 Joan Ruddock:** You are quite clear that the producers should pay, so how would payment be organised? What would be the funding flow from producers to local authorities?

**Ms Roberts:** As I understand it, the proposed mechanism is something like a compliance scheme.

**Q183 Chairman:** You had better explain that to us.

**Ms Roberts:** A compliance scheme—well, essentially in the same way that the packaging system works which is that obligated companies would have to pay somehow to a central pot of funding which could then be accessed for, for example, upgrades to civic amenity sites, and then they would be required to collect from those sites for free. That linkage is quite important, I think, because if a local authority is to begin to collect separately then it needs to be linked to the collection from there to another point.

**Q184 Joan Ruddock:** Are discussions going on about funding mechanisms?

**Ms Roberts:** There is a proposal in the regulation consultation which came out in November to do that, and we have indicated to Defra that we would be keen to be involved in those discussions and to perhaps be involved in facilitating a day with local authorities and retailers and/or industry to think through how to do that. I suppose the issue for the LGA is that we rely upon people with day jobs and local politicians and myself as the policy officer and



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so we would need perhaps some help to do that, but we would be very keen to be involved in something like that.

**Q185 Joan Ruddock:** Can we just look then at the civic amenity sites? To what extent do you think they will play a central role in the successful execution of the WEEE Directive?

**Ms Roberts:** The household waste site network can play a role in helping to deliver the United Kingdom's obligations, but considerable investment is needed to realise that potential and the standards of service offered will be extremely variable. We believe that the household waste site network alone will not deliver the United Kingdom's obligations for avoiding co-disposal of WEEE with domestic waste, and that other options such as in-store take-back and return systems should be central to the delivery.

**Q186 Joan Ruddock:** And what the ESA told us was that it would be easier, quicker and more effective to develop such sites rather than to develop a completely new infrastructure. Do you agree with them?

**Ms Roberts:** I think that that is firstly not the case, hence the statement that I just made, and also it ignores the vision that we need for perhaps the next ten or twenty years where we see not simply WEEE and batteries but we move into various other issues such as fluorescent tubes or empty bleach bottles, and perhaps we need to be a bit more visionary about the infrastructure that we need, a bit more imaginative, and to stop saying that the local authority, civic amenity, bulky and kerbside collections will cope with everything. The clear message is that we do not believe they will, even with extra funding. We would need more sites and smaller sites and, as you know, acquiring sites and developing them takes a long time.

**Q187 Joan Ruddock:** But you would see it being a local authority function, or are you requiring new partners or new infrastructure? I understand the new infrastructure of which you have just spoken is just in addition to the same function, is it not? It is extending the same functions that you have at the present time?

**Ms Roberts:** One could either extend a local authority function to create new sites or start to use retailers or other sites perhaps more and be a bit more innovative about doing that.

**Q188 Joan Ruddock:** What about waste management licences and planning constraints? Do you see necessary changes there for this new vision or future vision that you may have?

**Ms Roberts:** The permitting review is clearly important to this also, and the issue of proportionality in risk, and so where we find that the battery collection in Bristol was not able to go forward in a retailer take-back way because of the need for hazardous waste licence in a shop, that meant that they collected at kerbside and it ruled out other options, and that cut out a lot of flexibility

essentially so yes, certainly licensing is going to be critical to the future of the infrastructure. I think that there is an understanding both within Defra and the Agency that proportionality and permitting is going to be crucial in the future, and that is broadly being dealt with, as I understand it.

**Q189 Joan Ruddock:** When you look at that considerable picture that you have just drawn, do you see that producers are or should be the sole funders of that whole operation, or do you think that government has to be involved in the funding, or some burden placed on local authorities?

**Ms Roberts:** Local authorities have a responsibility. If that is to change then that is a slightly different issue, I suppose. Certainly we think that producer responsibility has a major role across the waste streams, and that if producer responsibility is to work then financially the burden must be placed with the producer, or that instrument is no longer a producer responsibility instrument, and I suppose that is one of the things we would say about packaging—that although it is not strictly a PR regulation, local authorities do bear the costs of collection of those materials and that perhaps weakens that instrument.

**Q190 Joan Ruddock:** Do you think that you have been adequately consulted by government, or had adequate consultation with government? Has the consultation been adequate, do you think, for this process of implementing the WEEE Directive?

**Ms Roberts:** My understanding is that we have been involved right from the outset and also we are very pleased to see the proposal that a compliance fund would be producer money rather than new burdens funding, and so we do feel that in this case government has responded to our issues, although we are still at consultation stage so I do not think this has completely bottomed-out yet. One thing that we were keen to see was more perhaps facilitation between the different groups, so consultation of a rather different sort, instead of perhaps bilaterals and responses in writing to particular questions, and perhaps if we could have some facilitation earlier that might be an interesting new way of resolving issues earlier on. For instance, the LGA executive is very keen to start taking a much more frontfoot position on up-coming Directives—for instance, the Batteries Directive. We are keen to start talking to industry right now to talk about what hurdles might need to be jumped over in order to smooth the path.

**Q191 Chairman:** Just help me with a little point: you are very clear that the civic amenity network cannot cope by itself and the producer has a responsibility but by definition, perhaps even more so it should be the case, local authorities do their own thing in their own patches. But we need a kind of strategic view on this. Who do you think is responsible for that strategic view? You said that there was a dearth of civic amenity sites in Hackney, understandably. Who is going to produce that kind of “map of the world”?

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**Ms Roberts:** With the WEEE Directive in particular what we need to see is local authorities grouped together subregionally perhaps in order to get some economies of scale working with retailers and industry—and when I say “industry” that is not just waste managers but also those doing the take-back. I think there are wider issues around the co-ordination of very many of these issues. It is not easy when you are trying to co-ordinate something like that with no capacity, and local authorities do not have a bulked-up capacity to deal with that. You need a top slice to deal with that sort of issue, but nonetheless probably in groups it would be something that could be done.

**Mr Lucraft:** Yes.

**Q192 Chairman:** A sort of wider, workshop discussion than the bits of paper that you were talking about earlier on?

**Ms Roberts:** The bits of paper?

**Q193 Chairman:** You said there had been a lot of bilateral discussion, a lot of forms to be filled in. What you are saying is it should be something to get people on a regional or subregional basis to sit down together and say “What are the possibilities?”

**Ms Roberts:** Yes. The key issue is the need for clarity about where responsibility lies and our officers have found that, when they are in a room with industry representatives, when there remains a lack of clarity about where the responsibility is going to lie it becomes very difficult to work through the practicalities, and what we need is a very clear steer early on about where responsibility will lie and how, and perhaps one of the issues which we can see throughout the implementation of waste directives is a reluctance to fall down on one side or the other at an early stage, which creates the uncertainty and the risk, which means that actually knuckling down and getting on with the delivery is difficult. Perhaps if a year ago it was made clear that civic amenity site infrastructure would not, or could not, deal with everything, then we could have just sat down and started to deal with it.

**Q194 Chairman:** In your evidence to us you say that it is important that Defra has appropriate internal support to provide guidance on legal issues. Are there shortcomings with Defra? In your discussions with Defra, do you feel you are not getting the help and responses you need, both on ELV and on WEEE?

**Ms Roberts:** There has been a long-term issue around the capacity within Defra, and perhaps government more widely, to respond to a complex

set of directives. I am not sure that I can go much further than that, although my understanding was that one of those particular issues was around legal advice.

**Mr Lucraft:** I will jump in there, if I may. One of the things we have spotted, and I think it was raised by Biffa at the last meeting, essentially was that there seems to be a regular turnover of staff at Defra, which makes the acquiring of expertise difficult. It is notable that sometimes we are seeing different people handling the matter at different times and therefore the message becomes unclear, I feel.

**Q195 Chairman:** Finally, I think you have told us this but as a kind of exit line there are a lot of environmental directives coming along, and you are at the sharp end of this. What is the key lesson to be learned from this? What is your parting shot, as it were, to make it all better?

**Mr Lucraft:** If I had the magic wand?

**Q196 Chairman:** We will give you that when you go out!

**Mr Lucraft:** I would have to say we need the specification first. Whatever you want to do to the product let us have that first, give it to industry, and then tell industry it has a year, maybe two, to bring itself up to speed to deal with it and then bring in the legislation data saying, “As of two years’ time you will have to do this to your toaster”, or your car, or whatever, and that gives the industry two years to ramp up to that. What we are seeing at the moment is we have the cart before the horse in that we have, particularly with ELV, the legislation and then we get the guidance afterwards.

**Q197 Chairman:** Alice, what is your “get-out” line, as it were?

**Ms Roberts:** We would like to see the leadership being bold and visionary—

**Q198 Chairman:** We would certainly like the Prime Minister to be so!

**Ms Roberts:** We would like to see recognition of the funding needs around this issue since it is really the bottom line for local authorities if we want to see this delivered, and we would like to feel that we are being listened to perhaps more than we do at the moment, although in fairness we do have a very good dialogue with government on this. Particularly we would like to see a power to charge households.

**Chairman:** Thank you both very much indeed. You have promised us a long list of extra material so maybe we will just give you a ring to make sure we are both working off the same list. Thank you for coming.

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#### Memorandum submitted by the Environment Agency (E5)

##### 1. SUMMARY

There are a number of learning points that have arisen from the work undertaken in implementing the End of Life Vehicles and Waste Electrical and Electronic Equipment Directives. A number of lessons learnt from the implementation of the End of Life Vehicles Directive have been taken forward in the work programme for the Waste Electrical and Electronic Equipment Directive.

- There is a need for a clear documented transposition and implementation timetable as early as possible in the regulatory development process. This has to be updated as required.
- One Department should take the overall lead in managing the transposition process. Ideally this should be within a project-based framework.
- New Directives should be implemented in a way that harmonises with existing regimes and takes full account of the modernising regulatory approaches being developed by Defra and the Agency.
- An assessment of all the potential impacts arising from the implementation of a Directive is needed to ensure that unintended consequences are minimised and that the cumulative impacts of different Directives are understood.
- These Directives have required further negotiation to resolve outstanding issues. This has caused uncertainty in the planning and implementation process.
- The Agency would welcome the opportunity, in a structured way, to become more directly involved in the negotiation of key Directives. This was also recommended by the Better Regulation Taskforce's report "Environmental Regulation getting the message across".

## 2. INTRODUCTION

2.1 The Environment Agency ("the Agency") welcomes the opportunity to submit evidence to the Environment, Food and Rural Affairs Committee's Inquiry into the Government's preparations for the implementation of the End-of-Life Vehicles Directive (2000/53/EC) and the Waste Electrical and Electronic Equipment Directive (2002/96/EC).

2.2 The transposition of both Directives will give rise to new duties for the Agency. In particular we will have responsibility for: regulating storage sites and treatment facilities for both End of Life Vehicles (ELVs) and Waste Electrical and Electrical Equipment (WEEE) monitoring and enforcement of those sites to ensure compliance, and monitoring and enforcement of non-permitted sites.

2.3 There are other duties, which may fall to the Agency under both Directives but as yet these are unclear. For example, registering producers, importers and compliance schemes for producer responsibility obligations and also for auditing achievement of recovery and recycling obligations of producers under both the ELV and WEEE Regulations. These are important aspects of the Directive and accountability and resources for these needs to be determined.

2.4 From the Agency's experience there are four main issues which need to be considered in the implementation of these two Directives:

- a clear timetable for transposition and implementation which is kept up to date;
- one Department should take the overall lead in managing the transposition process, ideally within a project-based framework;
- new regimes need to be implemented in a way that harmonises with existing ones and that takes full account of the modernising regulatory approaches being developed by Defra and the Agency; and
- an assessment of all the potential impacts arising from the implementation process is needed to ensure that unintended consequences are minimised and that the cumulative impacts of different Directives are understood.

2.5 The implementation of the WEEE Directive is benefiting from the lessons learnt from the ELV Directive work.

## THE END OF LIFE VEHICLES DIRECTIVE

3.1 The End of Life Vehicles Directive was published in September 2000 and should have been transposed in the UK by 21 April 2002. The Directive was incomplete at the time of publication.

3.2 Several key implementation issues remain unresolved. These include:

- the extent to which producers will be responsible for the costs of treating End of Life Vehicles from January 2007;
- demonstration of recovery and recycling targets by producers from 2006; and
- requirements for issuing Certificates of Destruction (CoD) by Authorised Treatment Facilities.

3.3 The DTI has overall responsibility for the Directive's transposition, whilst Defra had specific responsibility for developing the Regulations for permitting of Authorised Treatment Facilities.

3.4 The delays in transposing the Directive have caused the Agency significant difficulties in planning and preparing for the permitting and other workloads associated with this legislation. The Agency's role in respect of the Producer Responsibility aspects remains uncertain.

3.5 There is a need for a clear understanding of the roles and responsibilities of both DTi and Defra in terms of overall lead, co-ordination and individual work terms.

3.6 The need for good co-ordination can be exemplified by the work on Certificates of Destruction (CoD). Certificates of Destruction can only be issued by Authorised Treatment Facilities permitted by the Environment Agencies. Whilst the permitting aspects of the Directive have been led by Defra, the Certificates of Destruction system, which will be managed by the Driver and Vehicle Licensing Agency (DVLA), has been led by the DTI.

3.7 It now appears that there will be two sets of regulations: the first for permitting of Authorised Treatment Facilities and covering the restriction of heavy metals in the manufacturing of motor vehicles and the second will cover producer responsibility requirements, including recovery and recycling targets. The consultation paper covering the second set of regulations has yet to be issued by the DTI.

3.8 For the End of Life Vehicles Directive, the first tranche of Regulations are expected to be in place by the end of October 2003. These will require the permitting, by 31 March 2004, of about 1,500 existing "exempt" sites. Implementing a new regime to this timescale will have an impact on existing Agency operational work. It is only recently that Government has agreed the permitting approach.

3.9 Un-de-polluted End of Life Vehicles are classified as hazardous waste under the European Waste Catalogue (EWC). Technical guidance on the removal of fluids and components to render an End of Life Vehicle non-hazardous has been developed through a joint Government/Agency project but the status of that guidance is still to be agreed.

3.10 The Government took an early decision to make last owners take on the costs of End of Life Vehicle de-pollution until 2007. In its response to the Government's first consultation on the implementation of the End of Life Vehicles Directive in 2001, the Agency warned of the potential consequences of this policy. Because last owners will take on the costs of de-pollution the temptation to abandon those vehicles will be even greater than at the present time. At present, of the UK total of two million End of Life Vehicles processed through vehicle dismantling operators and scrap metal shredders each year, 300,000 will have been abandoned.

3.11 Alternative options available to offset the costs of de-pollution and limit the potential for last owners to abandon their End of Life Vehicles, through subsidised or fully funded disposal or take back schemes which could include: funding from Government, through the purchase price of new vehicles or higher vehicle excise duty.

#### 4. THE WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT DIRECTIVE

4.1 The Waste Electrical and Electronic Equipment Directive was published in February 2003 and should be transposed into domestic legislation by 13 August 2004.

4.2 The Agency has been encouraged by the project-based approach to the transposition of the Waste Electrical and Electronic Equipment Directive that has been adopted by Government. A number of lessons have been learned from implementation of the End of Life Vehicles Directive.

4.3 The DTI has taken the overall lead on Waste Electrical and Electronic Equipment and developed a comprehensive planning framework. A policy manager and policy advisor from the Agency are represented on the core implementation team, which comprises staff from the DTI, Defra and the Environment Agencies. Members of the team underwent joint project-management training early in 2003.

4.4 The core implementation team was responsible for the production of the initial discussion paper issued in March 2003, is now developing the consultation paper due to be issued in November 2003 and the draft Regulations in spring 2004. The project team is supported by a wider Advisory Group representing other Government Departments.

4.5 To date, each of the key milestones in the project plan have been reached on time.

4.6 Defra has timed its broader waste permitting review to meet the permitting requirements of the Waste Electrical and Electronic Equipment Directive. The Agency is working closely with Defra on this review that aims to deliver a more responsive and proportionate permitting regime. We strongly support this initiative and have seconded two members of staff to work with colleagues at Defra. We are hopeful that the review will fully inform the permitting arrangements for sites handling Waste Electrical and Electronic Equipment.

4.7 Stakeholder forums were established and over 30 seminars were organised throughout the UK prior to the publication of the Directive. The three-stage consultation strategy and the provision of up-to-date information on the DTI's website have helped to raise awareness of the Directive's requirements and the various implementation options. A communications strategy has been developed and guides to the Directive are being prepared to promote understanding amongst affected businesses and to maximise participation in the consultation process.

4.8 A number of difficult issues still need to be resolved with the Waste Electrical and Electronic Equipment Directive. For example there are no *de minimis* provisions in respect of producers and taken literally, the Directive requirements could extend to petrol driven lawn mowers, musical greeting cards and gas cookers.

4.9 Article 9 is being renegotiated, reporting requirements have yet to be clarified and the scope of the Directive is still being evaluated by the Technical Adaptation Committee. The DTI is leading in trying to resolve these issues at a European level.

4.10 Another issue still to be resolved is the standard to which Authorised Treatment Facilities processing Waste Electrical and Electronic Equipment should be working by 2005. Industry is seeking clarification on whether the various operations and treatments required under the Waste Electrical and Electronic Equipment Directive can be undertaken after specialist shredding or whether more manual handling and therefore more costly preparation of Waste Electrical and Electronic Equipment will be demanded, as appears to be required under the Directive.

October 2003

*Witnesses:* **Dr Paul Leinster**, Director of Environmental Protection; **Ms Liz Parkes**, Head of Waste Regulation, and **Mr Jeff Cooper**, Producer Responsibility Policy Manager, Environment Agency, examined.

**Q199 Chairman:** Can we welcome friends from the Environment Agency here again. Some are old—or familiar—faces, Paul Leinster, Director of Environmental Protection; Liz Parkes, Head of Waste Regulation and Jeff Cooper who is the Producer Responsibility Policy Manager. When we have been taking evidence on both these Directives it has become quite clear that the role of the EA is crucial, and perhaps we ought to go back to the report that Lord Haskins has recently written, the difference between policy and delivery. Some people are not entirely clear what your role is, whether you are policy people or regulatory people. On these two Directives, are the lines clear to you?

**Dr Leinster:** Yes, I think they are. We are, in Lord Haskins' terminology, a delivery body, but of course we need to inform the policy development because we can give practical examples of the implications of deciding policy one way or the other as it is being developed.

**Q200 Chairman:** And then, if you were a regulator, you have to do the job properly and have the resources to do it. I am not asking you to make a pitch for resources—you may choose to do that—but both these Directives are big pieces of work.

**Dr Leinster:** Yes. I think there are three aspects to the resources. As you say, these are new regimes; they will have with them associated charging regimes, and that will enable us to deal with licensed sites, so as soon as a site applies for a licence they will pay us an application fee and we will then have the money to be able to deal with that. There is an issue about funding during the development phase of the regulatory regime—that is always an issue—and there is also an issue to do with funding as we go through the early stages of implementation. Because, when the regulations come in, we have to make sure that we have adequate numbers of fully trained people to work on them, but the funding is not yet available because the funding comes in as the applications come in. So we have been discussing with government, with Defra, and we will be highlighting this as an issue through our Spending Review 2004 submission, how we ramp up during early stages of a regime. There is then a third area, and that is how do you deal with those sites which operate illegally, because we get money to deal with legal sites but our grant in aid is continually under

pressure and is non-inflated, and therefore as new duties come along they have to be funded out of money which was already there for existing activities, so there is a real pressure on how we are able to deal with illegal activities, including sites which are dealing illegally and also fly-tipping activities.

**Q201 Chairman:** Just help me because—and I have to be careful how I say this—I have recently been to look at some vehicle dismantlers and a lot of them are not going to make the grade, are they?

**Ms Parkes:** Most of the vehicle dismantlers that you, I suspect, have visited will be ones either already licensed by the Agency or may be registered as exempt. Now there is a raising of standards to meet the ELV Directive and one would expect that to happen. We do not consider that to be a huge increase in the standards the sites need to meet, and that view is derived after lengthy discussion with the industry.

**Q202 Chairman:** But they have to have concrete bases and covered areas, and for some it is going to be a big step change?

**Ms Parkes:** For some it will be a step change. Most of the sites that are taking any significant number of vehicles will already have that infrastructure in place. They will have concreted areas. They may not have roofed areas but most of the types of sites we are talking about already have concrete areas in place. They may need to expand the concreted area to deal with the capacity.

**Q203 Chairman:** But there will be a cost for them as well?

**Ms Parkes:** Inevitably, if you are talking about raising standards, then there is a cost and we have been working very closely with the industry to make sure that the Directive standards can be met without disproportionate cost.

**Q204 Chairman:** Are you confident that is going to be the case?

**Ms Parkes:** I do not think it is an industry that is shy of coming back with comment if they feel we are imposing an unjustifiable burden. As I say we are satisfied and we work very closely with sector, particularly when it comes to looking at licensing

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costs, and have had regard to the fact that there are increased costs to be met in terms of infrastructure. It is important sites are spending the money on that improved infrastructure and not paying for additional regulatory costs if those are not justified.

**Q205 Chairman:** Certainly they are not slow in coming forward—that is why I have been having a wander around listening to people—but one of the concerns is there is still a lack of clarity on the timetable. Let us stick with ELV for the moment. What do you think the timetable is?

**Ms Parkes:** The regulations are now in force. If we are talking about permitting of authorised treatment facilities, those regulations came into force on 3 November. All existing exempt sites that want to continue taking undepolluted vehicles need to apply for a waste management licence. They have until 31 January to apply for a licence, and we have written to those operators to advise them of that requirement. For all those that already have a licence in place, and we are talking about 900 sites, the heightened technical standards take effect directly through the regulations. So there was some confusion over the requirements, but since the regulations have been drafted and are now in place that clarity has now be delivered for the industry.

**Q206 Chairman:** I think, Paul, earlier on you told us about this kind of circular notion, that you are a regulator, you are a deliverer, but your experience has to inform policy as well.

**Dr Leinster:** Yes, it has.

**Q207 Chairman:** Are you confident that is happening? How often do you talk to Defra and to the DTI? And who do you talk to?

**Mr Cooper:** The meetings that we have with both Defra and the DTI are very regular meetings. What we have is a situation with the End of Life Vehicle Directive where there have been periods over the last three years where there has been a protracted absence of discussion—that is while discussions were taking place internally within government to deal with various issues which no doubt you will be probing next week—but on the whole, with the WEEE Directive implementation, we have got a project management system which operates there and we have been working very closely with colleagues both in Defra and DTI to ensure that we are dealing with the issues and we are dealing with them to a timetable that to date we have stuck to.

**Q208 Chairman:** Let's just go back a little bit further because I know there is a strong feeling in the EA that when directives are being discussed in the early days, when they are still in people's minds, you would like to be involved in helping the policy formation. Where has that discussion got to? It was in the Better Regulation Task Force.

**Dr Leinster:** Yes, it was. What we have now agreed is a concordat with Defra on the Agency's involvement in discussions in Europe, and we are now working through that. We have identified ten priority areas to work on with them in a structured

way influencing into Europe, and we have already had good experience on issues like the Environmental Liability Directive, the Waste Incineration Directive, and we are also working closely with them on the Water Framework Directive, and we are trying to build on that good experience of early engagement, the Agency to be there to provide technical support to the policy discussions, to use our experience of practical implementation to highlight when something is workable and when something is not workable. One of the other areas we are working together on is the regulatory impact assessments, using regulatory impact assessments to inform the discussions within Europe. What is happening now within Europe is that they are doing things called enhanced impact assessments which are regulatory impact assessments. The Commission are looking at the use of those with a number of environment directives coming through, and being able to inform those European impact assessments on the basis of impact assessments already looked at within the United Kingdom is a very powerful way of being able to influence the discussions and inform the discussions. So you are able to inform discussions with facts and data rather than just with assertions, so that has been very positive. The reason for the concordat is that, although previously we had good experience in a number of areas, we did not have a structured way which ensured that the Agency was involved, and I think now we are getting that framework. I would not say it was all in place but at least we now have the framework and going forward into the new year we believe we will have a structured way forward.

**Q209 Chairman:** So you are telling us that environmental directives are going to be much more practically orientated and the back-end consequences are going to be much more thought out and, in a sense, we are going to improve the way we deliver environmental legislation. This is an aspiration, is it?

**Dr Leinster:** It is, because there are two challenges within that. The agreement we have just now is with Defra and we need to work up a similar agreement with DTI because it is DTI that leads on these producer responsibilities, so that is clearly an area we need to work on. The other is we are only one voice amongst 15—soon one voice amongst 25—and so what we are also doing is working with Impel which is the network of environmental regulators in Europe to see how we can inform discussions there so that at an early stage in Directive development we get a voice from the regulators also informing the development process.

**Q210 Chairman:** And where is the decision with the DTI? The concordat? Is it still in early discussions?

**Dr Leinster:** Early discussions.

**Q211 Chairman:** Do you want to spell that out a bit more?

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**Dr Leinster:** Well, it is so early that—

**Q212 Chairman:** It has not started!

**Dr Leinster:** No, it has started but what we want to do is get the Defra one bedded in to learn from that to see how that works, and then take that learning into discussions with DTI.

**Q213 Chairman:** And you think there is a willingness?

**Dr Leinster:** I think so, yes.

**Q214 David Taylor:** You say that the transposition and implementation of the ELV Directive has been delayed. What do you think are the key reasons for that, or reason?

**Mr Cooper:** I think there have been very considerable problems associated with some fairly high level issues to do with, for example, the place of motor manufacturing in the United Kingdom. It is those very high level things that have been an influence at one end.

**Q215 David Taylor:** Can you give a specific example?

**Mr Cooper:** Well, there would be for example some difficulties associated with financing of the take-back provisions for some of the companies that are operating within the United Kingdom at the present time, depending on how those financial contributions are to be made for the future, for instance. But there is also one other thing that is quite significant here which is that quite often we see directives being agreed to and signed off at a European level where there is quite a lot of fine-tuning that is left then to technical assessment committees, and quite often we find that those technical assessment committees do not deal with the issues very quickly, so we have certainly experienced that as far as the End of Life Vehicle Directive is concerned and there are still some issues that need to be resolved with regard to the WEEE Directive as well.

**Q216 David Taylor:** Your evidence also talks about the significant difficulties that you have experienced in the planning and preparation process for the “permitting and other workloads associated with this legislation”. Could you tell us why and how?

**Ms Parkes:** Those discussions have been on-going with the ELV Directive for probably three years. It would be fair to say it has been commented today that Defra have not had the resources they might have liked. We are very confident that that position has been recognised and resolved and we are seeing the approach for WEEE implementation being much more project-based which is good news to make sure there is early engagement; that parties know what is involved and we have plans in place to deliver and implement on time. It is very important for us as a regulatory body that we can plan because there are other issues associated with implementation of the Directive—not just the regulations but matters such as guidance, charging schemes and we have to have the staff in place, so we really need to be working on this project planning

basis to make sure both us and industry have sufficient lead time to deliver what is needed on the ground.

**Q217 David Taylor:** You are not very impressed with DTI and Defra in this area of ELV?

**Ms Parkes:** I did not make that comment; I said what is good news is that WEEE implementation is looking to be much better, and certainly the permitting review, which is something we have encouraged Defra to put in place, is a fundamental review of the regime to make sure what is coming forward is not just proportionate but integrated to deal with a whole host of new duties. This is to make sure that we put our resources collectively into working on something that will deliver a single solution to a number of these pressures.

**Q218 David Taylor:** I did not mean you individually; I meant the Agency is clearly unhappy with the understanding of DTI and Defra of the role they should be playing. You believe there is a lack of clarity in terms of overall lead, co-ordination and individual work terms. Is that some code for saying that these departments ought to get their act together?

**Ms Parkes:** We would obviously work better with greater forward planning to enable us and the industry to prepare.

**Q219 David Taylor:** Are there any observations from your two colleagues?

**Dr Leinster:** I think, as Liz has said, what we have done is learned from the ELV experience and translated that into the Waste Electrical and Electronic Equipment experience, so if we are to be learning organisations, which I hope we are, then that learning has gone forward and now I know Defra colleagues certainly are looking at how to take a project and programme approach to the development of all new regulatory regimes in this waste area. That is to be welcomed and we will provide support for it.

**Q220 David Taylor:** Are you impressed by the work of Defra and DTI in the ELV area?

**Dr Leinster:** I am not sure that I would express it in terms of being impressed or not impressed. These issues are difficult issues to deal with.

**Q221 David Taylor:** Do you think they have handled them well?

**Dr Leinster:** I think that they have handled some difficult issues but if you are asking whether I think they might have done better at some stages of the development if they had taken a project or programme approach to it then yes, I do. We have shared that with them and we also at one stage provided assistance to DTI by providing a senior project manager to assist in the process.

**Q222 David Taylor:** Let us move from your unstated assessment of their performance to the performance of your own Agency. You are to be responsible for permitting authorised treatment facilities for ELVs,

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and the first tranche of these regulations was due to be in place by the end of October that has just gone, and that envisaged by 31 March 1,500 existing exempt sites having had the appropriate permission. Is that correct?

**Ms Parkes:** That is the broad assumption. The regulations came in on 3 November, and we anticipate something like up to 1,500 existing exempt sites making new applications.

**Q223 David Taylor:** So you have had five and a half weeks of the five months. Simplistically that would suggest that perhaps three or four hundred of these sites have been permitted. How many have you permitted?

**Ms Parkes:** We have not received any applications that I am aware of yet. A typical means of implementing a Directive is one would have transitional provisions in the regulations allowing industry a period of time to make an application. It is fairly inevitable that, just as with tax returns, we put it off to the last possible date, so we anticipate the applications coming in quite close to the closure of the window, ie 31 January.

**Q224 David Taylor:** Do you see it as an entirely reactive process?

**Ms Parkes:** There has been extensive debate between the Agency and the trade bodies nationally, and we are also working with them to make sure there is adequate publicity and support provided to the industry on the ground to make these applications in as timely a way as possible. With the best will in the world we anticipate the applications will come in at the end of January, and what the regulations then provide is a four-month period for us to determine the applications. During that period, and until the application is determined, the operator can continue to operate quite lawfully, so they are not at any loss by not having the application determined. Obviously we will look to process those as quickly as possible to provide the maximum certainty, but that is a fairly typical implementation—particularly where we are talking about existing sites needing to obtain a new permit.

**Q225 David Taylor:** Whose target and deadline is this? I do not mean where did it originate, but whose responsibility is it to deliver the target to the deadline?

**Ms Parkes:** Industry will obviously need to make the applications and we will need to determine them. In terms of where the deadline comes from, it is a DTI imposed deadline to allow these sites to issue certificates of destruction, which is another key component of the Directive.

**Q226 David Taylor:** Do you feel any nervousness that some weeks into the process not a single application has been received? You have said that they will flood in in January, but are you in a position to be able to handle them speedily and accurately?

**Ms Parkes:** We will not be looking to turn all those around within a matter of days or weeks; that is why we have provided a four-month determination period. It is far from ideal to have all applications coming in by one date, and certainly with something like Landfill Directive implementation we have put in place a programme to stage those applications to give us a realistic workload. Now, we hope these are very much simpler permits, and we have been working with the industry to put in place standard templates and provide guidance to simplify the process as much as possible, so we are confident these can be turned around much more quickly than other more site-specific waste management licence applications.

**Q227 David Taylor:** So your strategic plan envisaged a peak of applications in the new year, and you are resourced to cater for that? There are not going to be other operational responsibilities of the Department that are going to have to go on to the back burner, are there?

**Dr Leinster:** Yes, there are. As Liz says, in an ideal world you would phase these in over a period of time. There would be dates where you could stage different facilities in so we did not have this very intensive, very short period workload that has come towards us. Because, again, the regulations only came into place within the year and we did not have a clear indication of the implementation date for those, and also we did not have a clear indication at the beginning of the year when we were planning of the need for certificates of destruction to be issued against this sort of deadline. That has caused pressure for us, so what we are having to do is to take folks from other activities to carry out this work so, yes, it will have an impact. What we will then do is look at how we then recruit other people into the Agency using that level of resource and train them up to other tasks, including inspection of treatment facilities.

**Q228 David Taylor:** *Titanic* was on Channel 5 last night and there were people on that as the ship that went down who were scurrying round doing relatively irrelevant tasks. Do you sense a problem occurring here through an iceberg that is heading your way in relation to the ELV Directive, and the peak of applications you are not going to be able to handle and other things are going to have to be cast aside?

**Ms Parkes:** I think it is important we keep this in perspective. These sites are already authorised, they can continue to take the vehicles, and obviously we will be looking to use our resources where they can have maximum effect to protect the environment. I am not decrying the fact that there is a peak of work to do but I think it is important to keep this in perspective. There are sites out there; we have assessed and already advised that we think most of these are capable physically of taking these vehicles; we do not anticipate there is a shortfall in capacity because there are already 900 licensed sites, and we believe the distribution and capacity of those sites is sufficient to take the types of vehicles we are talking



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about. So I am not underestimating the work involved but I do think it is important we keep this in perspective.

**Q229 David Taylor:** So you are ultra confident about hitting the targets?

**Dr Leinster:** We are not ultra confident and we are not underestimating task. There is a task which comes to us; it is a challenge; and we will rise to meet the challenge—just as I am sure, if you were given a challenge, you would rise to meet it.

**Q230 David Taylor:** You are also responsible for permitting so-called other facilities. Do you sense there will be any like difficulties in meeting that responsibility?

**Ms Parkes:** We do face a considerable challenge in repermitting new and existing sites. That is one of the reasons why we have been calling for a fundamental review of the permitting regime, and we are very pleased that Defra is working on that with our support because we think we need a more responsive regime than the current waste management licensing and exemption regime, particularly if we are going to cope with the new facilities that are required because of the Waste Strategy and diversion away from Landfill Directive, so we are in no way complacent about the challenges that face us and the industry in meeting that. Ultimately we obviously want to be focusing our resources where they can have maximum environmental impact and that means sending people out there to do the somewhat tougher job of compliance and enforcement, so we do not want to just be looking at permitting targets and pushing bits of paper: we are interested in how we get out there and deliver WEEE environmental outcomes.

**Q231 Chairman:** We would like to move on and talk fly-tipping. What is going to happen up to 2007? What is your best information?

**Mr Cooper:** We have done some work within the Agency with regard to this issue and we are talking here just of End of Life Vehicles. At the present time there are around 300,000 vehicles that are abandoned and then go back through the system—

**Q232 Chairman:** Yearly?

**Mr Cooper:** Yes, each year, but it is over the last two to three years that the problem has become so bad. Clearly there is the danger that, once the cost for de-pollution is added to any other costs associated with disassembling, there is going to be a temptation for people to abandon vehicles, particularly as last owners quite often are the most marginal motorists on the road anyway, so we do envisage there being an increase. It is difficult to judge what that increase is going to be but clearly also there are some measures that have been taken by government to ameliorate that particular danger, but we envisage there being an increase before those measures start to bite.

**Q233 Chairman:** You say it is difficult to put a number on it. We have heard different estimates. 600,000?

**Mr Cooper:** That would be double the current rate. That, to me, would be the outside estimate. I would say it would be lower than that.

**Q234 David Taylor:** And the number of vehicles being disposed of properly each year at the moment is what?

**Mr Cooper:** If you take 300,000 out of the two million being disposed of each year it means 1.7 million are being disposed of properly, and that is quite often these days with some local authorities providing some assistance, for example, subsidised collection for disposal through the proper routes.

**Q235 Chairman:** But if you stick at two million and say 500,000, that is 25%.

**Mr Cooper:** Yes.

**Q236 Chairman:** And this is very cost sensitive, I guess. A figure of £60 is being quoted. What do you think of that?

**Mr Cooper:** I would say it would be lower. I would say the additional costs are going to be less than £50, but they are going to be at least £40 so we are talking about, depending on which part of the country it is, either a doubling in the south or a substantial increase in the north, where costs tend to be lower.

**Q237 Chairman:** So there is some regional sensitivity?

**Mr Cooper:** Yes.

**Q238 Chairman:** What discussions are you having with local authorities about this?

**Mr Cooper:** We have a formal mechanism through the Local Government Association, and we are taking every advantage we can to deal with this issue formally through the Local Government Association, and there are meetings between our colleagues that work at a regional level and local authorities, and I have had quite a few meetings with individual local authorities dealing with these issues at a personal level.

**Dr Leinster:** Coming out of the Antisocial Behaviour Bill there was a requirement on the Agency and the Local Government Association to meet to discuss further the protocol that we have between the Local Government Association and the Agency on roles and responsibilities associated with fly-tipping and to clarify who does what within fly-tipping, and in terms of abandoned vehicles we believe, and I think the Local Government Association believes, that abandoned vehicles should be dealt with by local authorities. The Agency will be responsible for the more hazardous waste end and also the more organised illegal activity, so if people are deliberately trying to circumvent the law by disposing of construction and demolition waste by landscaping activities or those sorts of activities then we will deal with those and the more hazardous, but we believe it is for local authorities to deal with abandoned vehicles.

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**Q239 Joan Ruddock:** In some of the remarks that all of you have made you have already indicated that you think lessons have been learned from ELV and you rather indicate that WEEE is going better. Is there anything more you would like to put on the record, very specifically, about what precise lessons were learned that are now being applied?

**Ms Parkes:** One of the particular areas is this issue of stakeholder consultation. That has gone fairly well from my perspective on ELV and WEEE. With the waste permitting review we have looked to build on that, and what is happening is on-going stakeholder engagement through a series of informal consultations going on the Defra website. There is a steering group within Defra on which industry is represented and we have certainly been making noises to make sure the right sectors of industries are represented so we are not just talking about the traditional waste industry, but retailers, manufacturers, those that are impacted by WEEE and Hazardous Waste Directives. We have also mentioned the work we are doing on regulatory impact assessments, and that is another example where we are leading on that work with Defra and engaging with stakeholders now to say, "If the regulation comes out looking something like this, it would have this type of regulatory impact", and making sure we have some real data in there rather than just an Agency or Government assessment of what it would cost industry. This is where the Agency plays a key role. We cannot just look at the cost of regulation on industry; we need to look at the combined cost of regulations and how the Agency applies those, how would we interpret those and apply them and what would that mean for industry. So we are very supportive of the fact that work is going very well, and we are getting good feedback from a variety of industry groups that they are feeling much more engaged in the process, rather than just having a formal consultation at the end of six months.

**Dr Leinster:** DTI, as project lead in this, has also established a formal project which involves itself, Defra and the Agency, and through that all of the joint working and all the different aspects of work on implementing WEEE is being co-ordinated; there are clear milestones which are being met; and one of the things about meeting milestones is that it then gives confidence to everybody looking in on the process to say yes, this is a process under control and we as an industry can then make decisions based upon that confidence that we have in the process. So I think that has been very positive.

**Q240 Joan Ruddock:** On the review of the waste permitting arrangements, you said it would deliver a more responsive and proportionate permitting regime. What do you mean by that?

**Ms Parkes:** The waste management licensing regime went on the statute books in 1990. There have been a lot of changes since then and one area is on the definition of waste, for instance, so we now see more activities coming within the scope of regulatory control than one might have previously thought. We have a series of exemptions made by government

that deal with the lighter touch, lower risk activities which are much easier for industry to register. It does not cost anything to register most of the exemptions and we think that is a very proportionate and sensible way of dealing with low risk activities. We know where they are but we do not need to actively regulate them unless they become a problem. But again that system has been around since 1994 and we think it is timely now for a fundamental review of that, not looking backwards but looking forward to the challenges we all face and to look at the combined impacts of the Hazardous Waste Directive, End of Life Vehicle, WEEE Directive, the changes in the definition of waste and the new treatment facilities. We need to say, "What do we need for the future?", and rather than exemptions that take four years to review, let us have something that is much more responsive to the needs of industry, the Agency and the environment, that actually allows novel treatment and technologies to come forward, and not have those barriers of regulation put in the way. That is what I meant by something more responsive.

**Q241 Joan Ruddock:** Can you illustrate that specifically for the WEEE Directive?

**Ms Parkes:** Certainly. Mention was made earlier of the need to have a waste management licence or a permit if you are dealing with hazardous waste. That is the current situation. You can have an exemption for hazardous waste but only if it has been agreed with the Commission and has been the subject of discussion with other Member States. We think that issue needs to be looked at generically to say, "Well, if you are wanting to take back photographic chemicals, for instance, or fluorescent light tubes or cars even and these are going to be hazardous waste, can we not still have a proportionate risk-based regime for regulating?" If we need to get the prior consent of the Commission then that needs to happen and we need to look at what light touch appropriate regulatory mechanisms we need so that we are not putting barriers in the way of important developments, particularly on recovery and take-back schemes. So it can be done but we need to be planning for the future in putting those mechanisms in place.

**Q242 Joan Ruddock:** There has been, as you have given evidence, some mention of discussions between government and yourselves but can you just specifically talk about the role you have played in the discussion between government and the distributors and the producers, about how to collect and dispose of WEEE?

**Mr Cooper:** There have been a whole series of different stakeholder groups that have come together to discuss various issues, and there have been two meetings where local authorities have met jointly with retailers which has been quite helpful in at least providing some understanding of each other's perspectives.

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**Q243 Joan Ruddock:** Did you know that the evidence we have is obviously quite contradictory, with each body wanting the other to take the responsibility?

**Mr Cooper:** Yes. I understand that each of the groups will wish to place the burden—particularly the financial responsibility—on the other but I think there has been more of a mutual understanding of the difficulties that each of the parties has with regard to those sorts of issues. Clearly at the moment there are local authorities who have the responsibility for disposing of WEEE through the normal refuse collection system and also through civic amenity sites, and there will be a change coming about from this Directive with encouragement for segregation of waste, and I think the consultation paper now provides a mechanism for a certain amount of support from producers towards local authorities. This is probably inadequate as far as the local authorities are concerned, but if we look at this at an international level there is probably a clearer set of partnerships that establish themselves over time as these pieces of, in this case, national legislation associated with WEEE come together, and a mutual understanding and commitment towards working towards better environmental outcomes. We have seen in the Nordic countries, for example, a range of slightly different solutions, all of which have led to a better management of Waste Electrical and Electronic Equipment, and I hope that we are moving in the same direction as far as the United Kingdom is concerned.

**Q244 Joan Ruddock:** Does the Environment Agency have a particular prescription for how that mix should come out based on experience, for example, in other countries?

**Mr Cooper:** There is not an ideal solution. There are so many different parameters that you have to take into account that obviously one should build upon the practice that exists at the present time and so one should try to strengthen existing good practice with regard to how Waste Electrical and Electronic Equipment is being dealt with. For example, there are quite a lot of schemes for retailers to take large items back from households and one needs to strengthen that and not see, as we saw with fridges, that that system was totally disrupted and led then to a whole series of further problems when it went.

**Q245 Joan Ruddock:** Specifically on civic amenity sites, where do you see the responsibility there? We had a discussion earlier about who might pay, who might organise what extensions are needed. Do you have any views?

**Mr Cooper:** I think it is not really for the Agency to comment in depth on this but, as far as the civic amenity sites are concerned, quite a lot of people would naturally take very large items of equipment back there: there is segregation taking place at the moment with regard to large white goods which are segregated to go into shredders so that there would be some continuity there: many civic amenity sites already offer facilities for people to segregate large amounts of waste, and increasingly there are more of

these facilities being offered so it is a natural move as far as local authorities and their civic amenity sites are concerned, but producers will have a responsibility and I think it is for the producers—both the manufacturers and the retailers—to provide mechanisms of support if that is the direction in which they move, so they should be, for example, providing containers and, as is proposed in the consultation paper, support for additional infrastructure where that is required.

**Q246 Joan Ruddock:** If I might just press any of you on what the ESA told us, they thought existing civic amenity sites were the best way forward, better than to go in for new infrastructure. Do you agree or disagree with that?

**Dr Leinster:** I think civic amenity sites do have a role to play but not everybody lives close to a civic amenity site. There are also issues, as you were discussing with the previous witnesses, that not everybody takes advantage of collection of bulky items. There are certain sectors of society who buy secondhand, so I think at one level they will have a role to play, but we do have to think what is going to happen in certain neighbourhoods where segregated collection is not happening, they do not take advantage of collection of bulky items, they still want to get rid of their items but they do not happen to live close to or cannot transport to a civic amenity site. There is this assumption that you can take a bulky item to a civic amenity site but not everybody has the means to do that, so I think they will have a role to play but certainly when you look at facilities able to deal with the whole population, they are not the only answer.

**Q247 Joan Ruddock:** What do we need in addition?

**Dr Leinster:** It is going to be a mix. Retailers will have a role to play, and collection and how you encourage people to phone up for bulky items is also going to be a real challenge but I do not think it comes down to just facilities. There is a bigger, more difficult societal issue underlying this.

**Q248 Joan Ruddock:** And in expanding the civic amenity sites, which I think everyone is agreeing is going to be necessary, albeit not the whole of the answer, have you any advice on what could make their expansion more straightforward?

**Ms Parkes:** I guess they would experience problems with gaining planning permission like one does for any waste facility. This is where local authorities and RDAs are going to need to be identifying not just broad areas of search but actual sites. Historically, civic amenity sites have been located on or near old landfills in the days when these facilities were owned and operated by local government, so we have a changing picture now. Not too many local authorities will have identified new sites in their waste local plans, and we do need to look at what an adequate network of facilities would look like, both regionally and locally.

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**Q249 Joan Ruddock:** I represent an inner city seat and we all know the difficulties in inner London particularly, and it is the same for every city.

**Dr Leinster:** And there is this continuing disconnect that we have discussed before here and in other Select Committees between strategic waste planning and local locational planning decisions. Just now they do not tie up.

**Chairman:** We do not want to get on to local government structure!

**Q250 Mr Drew:** I apologise for not being here earlier; I have been having a very interesting conversation with the Leader of the House and you will be pleased to know that waste did come up! By coincidence I have been on a couple of occasions in the last fortnight working with the reclamation industry, and the gist of the question I am going to ask really comes directly from conversations with that industry. They would say that the problem with what we are trying to do at the moment is it looks very negative; it looks as though we are going to penalise people and we are going to try and see these materials as a complete chore, yet they would argue that most materials can be reclaimed. Obviously they are working at the top end of the market but they are adamant that every area like mine, like Stroud, should have a centre whereby any building is stripped and all its materials, including the bricks the building is made of, are taken to a central place and re-used. Is this a dream or is this something we can begin to approach? What is the attitude you see government having towards that? Is it one that means you can turn this real problem into an opportunity, or is it too difficult to handle—“Let’s incinerate it all”?

**Dr Leinster:** It plays into a number of areas that the government is looking at and certainly we within the Agency are looking at on, for example, sustainable communities, and the major new housebuilding that has to go on, and the consequential construction and demolition waste that will arise from that. One of the things we have been pushing for within that whole area is that developers should come forward with a waste management plan of how they are going to deal with all the materials, and that should also include how they are going to ensure better use of the virgin material which goes on to the site, because a staggering proportion of material that goes on to a site then subsequently never gets used and gets disposed of. So I think that there needs to be that strategic waste management which takes into account how you are going to deal with all construction and demolition waste; that it gets sorted and as much as possible gets re-claimed. Waste has to be seen as a resource; we need to be thinking again about things like the sustainable consumption strategy that is also being looked at and how resource flows go through different sectors. There are bigger opportunities in this: I do not think it has to be a pipedream, but it will require co-ordination and some work on the definition of waste, so that you do not have the stigma of the waste word being associated with some of these materials, or we must find some way of overcoming

that stigma. We have with recycled paper but not with some of the other recycled materials, so people should be saying, “How much recycled content can I get into this new product?”, rather than, “How much can I keep out of it because it is clearly second class?” Also there is a role for government and local authority public sector procurement, where they should be requiring minimum recycling content within purchased goods, so I think there are a whole lot of opportunities here: it will require bringing a whole lot of strands together but with the required attention it can be delivered.

**Q251 Mr Drew:** Obviously what they say to me is “Give us a few tax credits and we will do this even more effectively”—that may have come up earlier in discussions—but I suppose the question would be whether the two Directives we are looking at in this inquiry are moving in the right direction? Presumably you would say they are, but what lessons can we learn from those in the sense that we are looking to move the agenda positively in a direction whereby the various different consumers, including the public sector, actually ask for re-used or reclaimed materials to be included within their purchases rather than see it as something rather inferior. As you say quite rightly, we have got to a stage with newspaper but is that something these Directives are moving us towards, or is it a sideshow, or what?

**Ms Parkes:** What is helpful about both of these Directives is that they start to look at manufacture of these products—not just at take-back and recycling but at the hazardous components and encouraging materials to be separated out for recycling. Also, both Directives make the issue of waste real to the public. Often these things are seen as coming out of Europe and it happens “over there” to “somebody else’s waste”. Most people can relate to the concept of Waste Vehicles and Waste Electrical and Electronic Equipment—if only it were not such a mouthful! Paul was talking about changing people’s attitudes and this is a way of making it very real and saying that waste is a wasted resource and here is an opportunity to get people to think more responsibly about what they are purchasing, and how they are handling waste coming from it.

**Chairman:** So you are saying that directives like these are an opportunity, not a threat?

**Q252 David Taylor:** “Challenge” is the word they use!

**Ms Parkes:** A challenge.

**Q253 Chairman:** Is that the view of Defra and the DTI?

**Ms Parkes:** I would not like to hazard a guess at what their view is.

**Q254 Chairman:** Well, you work with them so what do you think?

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**Dr Leinster:** I think they see them as an opportunity because, for example, they are looking at other potential uses for producer responsibility in non-directive waste streams.

**Q255 Chairman:** Thank you very much. I do not think you have promised to send us anything—

**Dr Leinster:** We did not!

**Chairman:** —But if something occurs as you are going down the list please do not be afraid to drop us a line. Thank you all very much indeed.

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## Memorandum submitted by the British Metals Recycling Association (E12)

### SUMMARY

1. The ELV Directive was badly drafted from the outset and the flexibility of implementation devolved to the Member States has led to considerable difficulty in establishing a national implementation plan.
2. Government has failed to link producer responsibility for vehicle take-back to responsibility for meeting the associated recycling costs.
3. Departmental Officials have worked hard to find a solution which is acceptable to the recycling industry, but their efforts have been consistently hampered by political imperatives, by the often conflicting missions of the various Departments involved and a poor understanding of market forces.
4. There has been consistent and considerable uncertainty over key technical requirements. While the enabling Regulations come into force on 3 November, there is as yet insufficient information about likely costs and risks to enable investment decisions to be made by the sector.
5. The recent Better Regulation Taskforce on Environmental Regulation [July 2003] confirmed a confused approach, a need to place stakeholder interests ahead of Departmental interests and responsibilities, and poor Departmental justification for proposed actions.
6. The “light regulatory touch” approach adopted by DTI and DEFRA will lead to a severe contraction of the metals recycling sector—by far the largest UK recycling sector—with a collapse of SMEs in particular. We will also see an increase in the level of abandoned vehicles, and missed recovery targets.
7. The WEEE Directive will involve a wider range of stakeholders and, it is hoped, there will be increased clarity over how to define producer responsibility, having learnt from the mistakes of the ELV Directive. Nevertheless, considerable care is needed to ensure that technical and permitting requirements and funding mechanisms are established in time to meet the required introduction dates.

### GENERAL COMMENTS

8. UK Government, represented by the DEFRA, the Environment Agency and DTI, has invested a great deal of time and energy in its liaison with industry on these Directives. Open meetings have been held and Officials have attended sectoral meetings and conferences. However, despite these efforts, we are faced with a late and hotly disputed implementation plan for ELVs, in which the many practical arguments put forward by the metals recycling sector—one of only two key stakeholders—have been largely ignored in an effort to achieve “a light regulatory touch” on the UK vehicle assembly industry.
9. For WEEE, the implementation is not yet late and, mainly because the Directive is more prescriptive about the application of producer responsibility, is likely to be less contentious. Nevertheless, there is still cause for concern, as the Government has co-scheduled the introduction of the WEEE Directive [and, indeed, the ELV Directive] with a major review of the Waste Permitting Regulations. The idea is to have a revised permitting regime in place to support the Directive, but the review itself is proceeding painfully slowly.
10. DEFRA’s capacity to deal with these Directives is questionable. There have been a number of occasions during the development of the ELV Directive when papers have been held up due to lack of legal advisors in DEFRA, without which the drafts could not be released. Agreed positions have been varied or reversed with no or little explanation. There appears to be limited or poor dialogue between DEFRA and EA Officials.
11. A glance at DEFRA’s website confirms that Recycling and Waste is only a tiny part of their total field of responsibility. Directives such as these would be better handled by a Department that is more focused on these issues, as the DoE was before its amalgamation with MAFF.

### ELV DIRECTIVE

12. A principal driver of the slow progress in determining the operational structure for the ELV Directive has been the lack of clarity as to how producer responsibility should be linked to funding the incremental costs of treatment [principally costs associated with de-pollution and the significant on-site administration of new de-licensing requirements] and the achievement of the recycling/recovery targets. In drafting the Directive, to allow subsidiarity of Member States the wording was vague, leading to considerable uncertainty and arguments between vehicle producers and the recycling infrastructure providers.
13. Operators who currently process ELVs have not invested in additional facilities to meet the new requirements of the Directive, because they cannot see how it will be funded and hence make a business plan to justify the investment. This is likely to lead to a shortage of treatment capacity to the required standards, an increase in abandoned vehicles, and a failure to meet the 2006 recovery targets.

14. The situation has been by Government consistently failing to specify the detailed technical requirements it expects operators to comply with. Delaying publication of these requirements until on or after the date of implementation of the legislation has meant that operators could not confidently invest in facilities, even if they wanted to take a risk with the funding, and a strong possibility of “gold plating” of requirements. There is evidence that DEFRA and the EA have a poor understanding of the operation of commercial markets and have shown little sympathy for cost drivers—recycled metal is a global commodity with market prices determined outside of the UK.

15. Further, the producer responsibility regime that the DTI has tried to establish has, despite the best efforts of the officials concerned, resulted in a situation where the car assemblers/importers and the recycling sector are at variance. In making the case for controlling the cost base for car assemblers and importers, the likely operational structure for ELVs will be at the expense of a radically reduced infrastructure. This will further degrade the investment climate for recyclers, with the majority of the players currently involved in the industry [mostly SMEs] will find themselves without producer contracts, carrying an unacceptable cost burden and without clear access to their traditional ELV supply.

16. This will be further compounded by Government’s decision that treatment of pre-2002 registered ELVs will be at the last owner’s expense until producer responsibility takes effect in 2007. As the additional costs of treatment in line with the Directive are likely to be in the order of £50 per car, there is likely to be a huge increase in vehicle abandonment, which will create additional costs for Local Authorities. Changes to the DVLA’s vehicle registration system to introduce continuous licensing will not be sufficiently robust to prevent significant levels of abandonment.

17. The sector has been misled by Officials—despite assurances when consulted earlier this year on the vehicle assemblers/importers preferred “Own Marque” option that all other alternatives remained open, despite finding the scheme impracticable, Government has now advised that it is now too late to consider any other option.

18. Throughout the entire negotiation process of the ELV Directive, we have maintained that the key to its implementation is a robust funding mechanism. We have suggested a variety of practicable options—such as a new car recycling levy, or a modest impost on VED, or a Recycling Note system—but these have been steadfastly rejected for political reasons.

19. Had our proposals been accepted, the treatment operators would have had sufficient confidence to invest, with costs closely managed through a governing body representing the interests of all the stakeholders, which would set treatment fees claimable on the issue of Certificates of Destruction. Such a system could be supplemented by a scheme of tradable evidence notes for the recovery targets, which producers would be obliged to purchase in accordance with their new car sales in the prior year. This would generate much needed funding to support the recovery and recycling of materials that are not presently economically viable. Over time, the level of support could be reduced as recovery processes improve and ready markets for the recycled products develop.

20. The lesson that should be learned from this Directive is that a healthy infrastructure needs early notification of what needs to be done and certainty of funding to encourage people to make the necessary investment. In this case, we have had neither, as a result of which the car industry, the recycling industry, and even the Government face an uncertain future over costs, survival and fulfilment of European objectives respectively.

21. It could also be said that the Government acquiesced too easily in accepting this ill-founded European legislation without fully understanding its implications. The Directive should not have been adopted by Ministers until they had some understanding of its true costs and the nation’s ability to comply with it.

#### WEEE DIRECTIVE

22. The WEEE Directive appears to be considerably better drafted and constructed than the ELV Directive, with greater clarity of purpose generally, and the interpretation of producer responsibility, in particular, much clearer.

23. The Directive stipulates unambiguously that producers are responsible for the costs of treatment of the products that they put on the market, with alternative provisions for historic waste and new products. The producers are actively stepping up to the task of planning how to fulfil their obligations and the infrastructure is working with them to achieve the necessary requirements.

24. There are still difficulties, not least the present absence of clear guidance from DEFRA and the Environment Agencies as to the nature of the required treatment facilities, so that putative treatment operators can plan and invest in the normal way. To be fair, these bodies are working closely with industry to keep them informed, but with the lengthy Waste Permitting Review controlling the conditions which operators will have to fulfil when they eventually become a WEEE processor, time is again running out while many potential operators adopt a wait-and-see policy.

25. There are also problems of who will be responsible for what in terms of physical collection, storage, sorting, and treatment. There are many more stakeholders involved in WEEE than ELV, including producers, importers, retailers, refurbishers, recyclers, and civic amenity sites. The DTI, DEFRA and

Environment Agency have worked hard to engage all of these, both in their own workshops and through ICER, and there is a higher probability that the remaining concerns can be addressed before the UK finds itself subject to EU infraction proceedings.

26. The lessons learned from the ELV Directive must be applied urgently to the WEEE Directive. Although it is too late to change what was agreed at EU level for the Directive itself, we still have time to get it right for the UK implementation.

*23 October 2003*



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**Monday 15 December 2003**

Members present:

Mr David Drew  
Mr Austin Mitchell

Joan Ruddock

In the absence of the Chairman, Mr Mitchell was called to the Chair

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*Witnesses:* **Mr Neil Marshall**, Director General, **Mr Stuart Cottam**, General Manager, Recycling Solutions, Sims Metal UK and **Mr Shane Mellor**, Managing Director, Mellor Metals Limited, British Metals Recycling Association, examined.

**Q256 Mr Mitchell:** Welcome, gentlemen. We have Mr Mellor of Mellor Metals, a nice name. We have Mr Marshall, the Director General of the Recycling Association and Mr Cottam, of Sims Metal UK. You wrote to us, and I was grateful that you did, suggesting there has been a lack of clarity about producer responsibility, which I think is right. I wonder if you would like to develop that argument and tell us whose responsibility you think it is to clarify the rather vague wording of the Directive in respect of producer responsibility. Is it the Government's or is it Europe's?

**Mr Marshall:** I think it has to be our Government because they have authority delegated to them to do just that. It seems to me if we are at the end of the road with the expected transposition in April, we are in a very strange position because we have regulations in force but we do not know fully what those regulations pertain to. We certainly do not at this moment, my member companies, have full information for basing investment decisions to fulfil the requirements of those regulations. We have no idea whether people who put investments down will be able to take part in the new system, what sort of volumes they might have, what sort of costs; we still have elements of the regulations not yet clarified. So we are in something of a muddle, the whole thing seems to me to be rather back-to-front. We have a consultation from DTI which was due out tomorrow, was cancelled at 10 o'clock today. The last point at which people can apply for licences is the end of January, the consultation will now come out in the middle of January, presumably with a six or twelve week consultation period. It is all very interesting but my market place is confused. There will be casualties, no matter what we come up with.

**Q257 Mr Mitchell:** There will also be a reluctance to invest?

**Mr Marshall:** I think people are caught. They are required to apply for licences and you therefore to commit themselves to fulfil the requirements of those licences by the end of January, yet we do not even know what final form the structure will be.

**Q258 Mr Mitchell:** At what point did your alarm bells begin to ring as an organisation and say, "Something is going wrong here"? Were you consulted in the early stages?

**Mr Marshall:** My involvement has been since the beginning of March when I joined the organisation. I have to say in 30 years of dealing with legislation I

have never seen such a muddled position, confused partly because of the plethora of agencies involved but also because the structure seemed to be very strange. We have had consultations where we have been looking for consensus and there are only two parties involved in this—the sector and the vehicle manufacturers—and when you have an impasse, you have no agreement, you would expect them to move on, yet we seem to keep coming back with the same approach, which suggests a systemic bias towards the vehicle manufacturing industry. I would like to say that I support very much our manufacturing sector, and in particular the vehicle manufacturing sector, but the system has pushed us against the other party in the market place and I regret that. If you look at the WEEE Directive, for example, it starts with a much more coherent approach, where everyone is pulling together, there is a greater role for industry, and I think that coherence will produce a far better set of regulations.

**Q259 Mr Mitchell:** How do you expect the producer responsibility aspects of this Directive are going to work? There is an "Own Marque" approach, what effect is that going to have?

**Mr Marshall:** I do not want to hog the microphone but clearly it enables the people who are responsible for creating the product, the vehicle manufacturers, to evade their responsibilities through their prominent position in the market place. It seems to me therefore what we should be aiming for is a structure which involves the greatest number of recycling sites so we can continue to have neighbourhood recycling opportunities. What we have is a very, very efficient pyramid, which works at a very low margin, so it works extremely well, it encourages other forms of recycling and this is clearly going to damage that permanently.

**Q260 Mr Mitchell:** In what way will it damage it?

**Mr Cottam:** The pillar of recycling is economic sustainability. We are in a situation whereby the permitting is driving us to make speculative investment because we do not know what the return on that investment is going to be. We are in a position where we have to take on trust in order to make that investment, that Own Marque will not allow the vehicle manufacturers inappropriate leverage, the Environment Agency will regulate the industry going forward to ensure we have a level playing field and people will not be able to cut corners, and we are sitting in a situation where eight

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years on from waste management licensing there are still between 500 and 1,500 operators out there operating outside the law, and we are being asked to accept on faith that the DVLA will introduce and manage an effective continuous licensing system. From what we know about their plans for a continuous licensing system so far, there are no plans to tighten up on change of ownership, so the last owner will still be able to pick out a name from the phone book, fill in his V5 and say, "That is who he said he was", and then abandon his car two weeks later with impunity.

**Q261 Mr Mitchell:** That is not what you would expect to happen, more dumping.

**Mr Cottam:** I think certainly we will see more dumping. At the moment scrap metal prices are reasonably buoyant, at the moment our—

**Q262 Mr Mitchell:** They are buoyant now?

**Mr Cottam:** Yes, they are. They have come back this year.

**Q263 Mr Drew:** Why is that? Sorry to interrupt.

**Mr Cottam:** There is a good, worldwide demand. I am not the world's foremost expert in this, I am not a commercial guy, I am not a steel trader, but there is a good, worldwide demand for steel at the moment, driven by China I believe. So scrap prices have been—they are on their way back down now—during the course of this year at fairly record highs. So our industry, even at the first tier, have been paying for end of life vehicles, and yet we will still have a significant abandonment problem, going forward, under Own Marque.

**Mr Marshall:** The Committee should be aware that prices are set by the global market; it has nothing to do with UK operators. Secondly, on the question of abandonment, what we are seeing is a situation unmasked. Because there is an incentive for chaps with lorries to drive around and pick these things up and then deliver them to recycling yards, it means the apparent level of abandonment is much reduced. When we can no longer do that because of this point about economic sustainability, you will see the apparent level of abandonment rocket but it will not change. We think over the next three to five years we will see abandonment growing in practice so it will not just appear to double, which we think the numbers will show, it will probably appear to quadruple.

**Q264 Mr Mitchell:** Because they are not being collected?

**Mr Marshall:** Yes, absolutely.

**Mr Mellor:** Although the markets are buoyant at the moment once you add the cost of depollution then you get a negative figure. This is the problem we are having.

**Q265 Mr Mitchell:** And the small scrapyards with a guard dog which does not like intruders will not be able to deal with the pollution aspects?

**Mr Marshall:** I sat through a conference where the head of policing for the Agency confirmed that all of his new resources will be applied to making sure the people who have applied for licences comply with them. So there is no opportunity, or likelihood, we will see any attack on the unlicensed sites. It is certainly a non-level playing field. I would add also another reason why we will see an increase in abandonment is because we will see a reduction in the number of sites. If you have to drive 30 miles instead of 5 miles or 2 miles to deliver your broken car, it will not happen. For car read battery or tyres or whatever, because those sites also perform other obligations in the recycling chain.

**Q266 Mr Drew:** Can I pick up one thing you say in your evidence, which is that you think that the Waste Electrical and Electronic Equipment Directive is much better drafted and constructed than the End of Life Vehicle Directive, why do you think that is so?

**Mr Marshall:** It certainly states unambiguously that producers are responsible and that their responsibility includes financial responsibility. What is clearly missing from the ELV Directive is any extension of the argument for producer responsibility. At the moment if, as we expect, we see Own Marque appearing in the final consultation exercise, it will effectively remove any financial obligation for vehicle manufacturers. We will see that transferred entirely to my sector. Back to this point about economic sustainability, it is a classic third pillar of recycling. We have to do what is a common good, we have to do it appropriately but we have to be able to afford to do it, and we are going to enter an era where we will see our entire sector moving backwards at a time when I think governments in Europe and around the world are expecting the recycling movement to move sizeably forward.

**Mr Mellor:** It has to be remembered that our sector does actually handle 100% of end of life vehicles; in the current situation as it is now we are handling 100% of those ELVs.

**Mr Marshall:** I recall SMMT in the first evidence saying they handle 80%, they handle 0%. We have always handled 100% of vehicles. We do it not because Government gives us money, but because we can afford to do it and obviously get a return, and over the years the processes have become more complex, the technology has advanced enormously, but at the end of the day if the economics do not work, and they are our economics, then my men will pack up and go.

**Q267 Mr Drew:** Can I be clear, are we talking about a UK problem or is this a pan-European problem? Is it worse in this country? Can you give me good practice elsewhere in the EU where they seem to be better geared up, notwithstanding the Directive?

**Mr Cottam:** I think it is probably significant to note that Member States which have car manufacturers have got very different solutions from Member States which do not have car manufacturers. The ones which do not tend to have gone for some central fund or tradable permit system rather than giving

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manufacturers direct responsibility. So it comes, to me, down to the strength of the vehicle manufacturers' lobby.

**Q268 Mr Drew:** I am glad to hear you say we still have manufacturing in this country, some of us would argue that is a bit of a sore point. This is the core of this, is there almost a differentiation within the EU about how this Directive is likely to play?

**Mr Marshall:** I would echo precisely what Stuart has said. The market place is where there is a significant manufacturing base. We have nothing against the vehicle manufacturers, they should be our partners, but because of the conflict this system has engendered we are up against each other, which is wrong. I would remind you, lady and gentlemen, there have been three major reports commissioned by the Government—one by Ernst & Young, one by TRL and a third one by the Institute of European Environmental Policy—and all have said that to do this properly and to create the right kind of incentivisation to increase the rate of recyclability you need some form of central fund. All along we have said to Government we need incentivisation to increase rates of recyclability for products which currently have no market. I would cite plastic bumpers, what are we going to do with them? We have had fridge mountains, we have had butter mountains, it will be the bumper mountain next. There has to be some mechanism there to encourage it. Each of those independent reports have said there needs to be a central fund. Whether that is contained within the price of a vehicle, which will be a very, very nominal percentage indeed, or within the Vehicle Excise Duty, whatever, these are relatively small amounts of money. If you are looking at partnership between Government and industry, then a central fund permits that common purpose to just lay enough bread on the water to improve recyclability, which is what I think Government want and what our nation wants.

**Mr Mellor:** It would also help us to justify business plans over a five year period. At the moment we can only see two years ahead, last owner pays, and that does not give me a lot of confidence when you see the level of abandonment over the last few years.

**Q269 Mr Drew:** I do not want to paraphrase in an unfair way but it does sound as though you are almost asking for a much sterner steer from Government, a much clearer regulatory regime, and that obviously has to be aimed at the initiators of the material. That is a fair statement, is it?

**Mr Marshall:** If you are introducing producer responsibility legislation, you have to define that, and this is ill-defined within this Directive or the application of this Directive within the UK legal framework. I think that is tautologically obvious. If you look at subsequent legislation, we have a battery directive coming through, we have WEEE and others emerging, they all define quite precisely the relative roles of the players in the market place and who is financially responsible for what and what levels of the system they should pay for. I say again, we are not asking for hand-outs, but what we are

facing is the destruction of a major part of my market place and we are not responsible for putting these vehicles on to the market. I think there are some loose ends there.

**Mr Cottam:** Talking about economic sustainability, what we are asking for, as Neil says, is not a hand-out, we are asking for a mechanism for funding should funding be needed, without giving the vehicle manufacturers a dominant position in our sector.

**Q270 Joan Ruddock:** I want to take you on to the WEEE Directive. Mr Marshall has said this afternoon it has a much more coherent approach, but in the written evidence from your Association I think you said that there still were some problems, not least the present absence of clear guidance. I want to ask you what guidance do you still require and from whom—from Defra, from the Environment Agency—and what impact is that lack of guidance to date had on investment? We have heard obviously in relation to ELV but now in terms of WEEE please.

**Mr Marshall:** We have some road to go down yet on WEEE, it is the end of next year and I think the experience has been better though not perfect. We still do not fully understand what the treatment facilities should be. I think we are very worried about whether process will be defined by Government, we think that should not be part of the Government's role, it is the end result we want, and again we have to have something which is economically sustainable. Certainly we have had a better experience of the way in which officials have interfaced with each other. I have to say I feel very sorry for Defra and for the Agency because they have been under-resourced. It is as clear as night follows day that they will have the same problem. Their tasks are too large, they do not have bodies, but there appears to be a lack of willingness at the senior policy level to come together. Where DTI is involved, we have had very good relationships with the appropriate officials, but of course on ELV we have the same arm of government representing the two players in the market place, and that has been confused. As I said before, there is a systemic bias towards the vehicle manufacturers, and you can see that by the level of access for lobbying which has been given to one party and not to the other. I think this is wrong, this should be about opportunity, about partnership and about clarity. We do have a clearer position within WEEE and I think we will get there. If you look at the way the Better Regulation Taskforce looked at the problems of ELV and WEEE, they said very clearly there have been some major, major errors with the approach taken by Government for ELV, we need to get it right for WEEE. I think those lessons are beginning to be learnt but it is too late for ELV.

**Q271 Joan Ruddock:** Indeed, but on WEEE, can we be clear that if there is guidance you need what is the nature of that guidance, and is it from Defra and the Environment Agency?

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**Mr Marshall:** I think it should come from Defra, they are after all the policy-setters, and the Agency are the implementers. I would not be the first to suggest there may be some difficulties of communication between those two bodies, for whatever reason, I simply observe from the outside. It does need to come from Defra. As I said before, I think we have a slightly better outturn in prospect because of the way in which industry as a whole has been involved, particularly through ISA, which I would commend to you as being a very good model for engendering co-operation between Government and a complex set of industrial players.

**Q272 Joan Ruddock:** Do you have any ideas about when you might be getting some final guidance on WEEE?

**Mr Marshall:** We have a consultation out at the moment and that implies some months away. The pace at which developments have gone is faster certainly than ELV, and as I said before the record is slightly better, but we could still see a prolonged approach. We may yet miss the target date. I simply cross my fingers. I hope we do not get another problem area. We have enough problems with ELV without having the same thing rolling one year later on WEEE.

**Mr Cottam:** I spoke to my company's expert on WEEE, I am not my company's expert, and he tells me the issues are that we need enforceable and enforced standards, the recovery targets and levels must be monitored, and that the Government must not prescribe the recycling techniques; the Government must decide what outcome they want, what level of environmental protection they want and then leave the industry to find the solutions.

**Q273 Joan Ruddock:** You want to determine your own processes?

**Mr Cottam:** Yes.

**Q274 Joan Ruddock:** The guidance is for other things but the process is your own. Has the lack of that guidance and the lack of that certainty held up investment in relation to WEEE?

**Mr Cottam:** I think it must have. My company has invested in a specialist WEEE processing plant. As far as I know we are the only ones who have made that investment in the UK so far. It is a speculative investment because we do not know what the legislation is going to say.

**Q275 Joan Ruddock:** What might be the possible number of companies which could have made special investment?

**Mr Cottam:** I have no idea, I am not an expert in this field.

**Mr Marshall:** I would say probably half of the recycling sector are currently handling these kind of products, and that we are therefore looking at somewhere around 2,500 companies. It is not a very good outturn that only one company has made one investment so far. Part of it is simply the sequence. We have all these bits of legislation coming through, it all comes through in a rather peculiar way, it is

rushed then it stops, it is rushed and then it stops, there is no clear strategy for how all these bits of regulation fit together. We are hoping to have a conversation with Sir John Harman in January, asking him whether he understands how all these bits of regulation fit together.

**Q276 Joan Ruddock:** You would know if only one company out of 2,500 had actually made this investment?

**Mr Marshall:** Yes.

**Q277 Joan Ruddock:** Your Association would expect to know that?

**Mr Marshall:** Yes, absolutely.

**Mr Mellor:** How bizarre is it when in my company WEEE and ELV account for 45% of my business and yet we cannot make an investment decision on them.

**Q278 Joan Ruddock:** Right. Let us turn to some other things you said. You said that physical collection storage, sorting and treatment of WEEE are also areas where there are problems because you do not know exactly what is going to happen. Do you envisage a role for yourselves in terms of any bring-back scheme for WEEE?

**Mr Marshall:** I would imagine that we will be engaged through sub-contracting because in many areas of retailing there will be a reluctance to combine the end with the beginning. I do not suppose that we will be setting policy for those areas. It will be driven by the large retailers or the producers.

**Q279 Joan Ruddock:** We talked with a number of witnesses about the role of the civic amenity sites and the need for them to be expanded and somewhat changed if they are to take on these new responsibilities, which then raised lots of questions about planning consents and licensing and so on. Again, what are the consequences for your members of those sorts of expansions to take account of the new demands?

**Mr Marshall:** We obviously face some interesting competitive issues, particularly if there is some public subsidy for the local authority. On past experience, we will obviously watch it with a little concern but not a major concern at the moment. It is too early to see whether or not we will see a huge shift in market shares between those elements. It is a classic response. If we have a level playing field, the same cost burden and the same regulatory requirement, that is a fair game. If we all have to do that, that is something we would all support.

**Q280 Joan Ruddock:** What could be done to streamline the process? We have heard from others that there are lots of difficulties.

**Mr Marshall:** Which process?

**Q281 Joan Ruddock:** The process of planning applications, of licensing, in relation to new directives. Have you any thoughts? You may not have but it is an issue that has been raised by others.

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**Mr Marshall:** Clearly, you can have a model and if the planning authorities referenced against that model, unless it was unusual, I think there might be some assumption that planning would be granted. That would certainly help enormously. I know that government generally is looking to see whether the planning system as a whole can be stepped up. It is a major issue and we are constantly being faced with regional differences, right down to grass roots level. Again, I think this is unfair if the interpretation of regulation varies enormously from one part of the country to another.

**Mr Mellor:** My consultant engineers were told by the Environment Agency that I would not gain planning permission before I had even submitted my plans.

**Q282 Joan Ruddock:** Before you had submitted your plans to change what you have?

**Mr Mellor:** We have been told I will not get it by the Environment Agency. They say they will object and we are the major handler of ELV within my council area.

**Joan Ruddock:** Maybe we can try to pursue that. Thank you.

**Q283 Mr Mitchell:** You said only one firm had made the investment. I can see that you are being messed about and that the authorities do not have a view of how the market works and what need to be done to give it clarity, but surely only one is a comment on the commercial acuity and initiative of your members, is it not? It is pathetic.

**Mr Marshall:** Absolutely not. We still have responsibilities and therefore funding mechanisms are in the ether so you cannot make plans. One negative aspect of DEFRA and the Agency is they do not have any idea of commercial drivers. On ELV in particular there has not been a recent assessment of where we are. As the regulations have been topped up, bolted on, added to in recent months, no one has said, "What does this mean? Is it affordable?" It seems to me that should be basic, good practice. If you are a business, this is what you do. You say, "What commitment have I made? What will it cost to meet that commitment? Should I then be in that game?" If government is a partner in this, it should also be doing precisely this. At the end of the day, it is driving those costs by defining the system, by defining the routes to the system, and it simply is not happening.

**Q284 Mr Mitchell:** You are quite right but I can also see that here is a market, however it is defined by government, however incompetently it is clarified by government, however much is bolted on. There is a market there and a prospect and anybody with any sense is going to rush to invest, to move towards it, rather than just hanging back in terror. The fact that only one has done so is rather frightening.

**Mr Marshall:** I do not think we are hanging back in terror. We are waiting to see what the elements are. Many of these players are the same players who are facing the uncertainty of ELV. My members have to sign up by 31 January for a system which still is not

yet defined. The final consultation will come out in the middle of January. We still do not know what the costs or obligations are. We still do not know some of the regulatory requirements for something which was imposed on 3 November. This is an outrageous situation.

**Q285 Joan Ruddock:** Is it not a fact that if you do not invest your members are just going to go out of business because the proportion of your businesses that deal with these matters is so large.

**Mr Mellor:** Maybe that would be the preferred option.

**Q286 Mr Mitchell:** Oh, come on.

**Mr Mellor:** No; seriously. I go to my bank manager. How can I say to him, "Can you lend me £100,000 against this?" He will say to me, "Okay. How are you going to get a return on that?" I do not know. I do not have the information.

**Mr Cottam:** For us to know what future we have in ELVs post-2007, we have to see the next stage of the legislation. We know that the DTI have yet to define what an adequate infrastructure for authorised treatment facilities is. We also know that the vehicle manufacturers are agitating for somewhere between 50 and 500. A figure of a 10 mile radius for the public to get to an authorised treatment facility has been bandied about. That would give 300 contracted ATFs throughout the UK from the current 2,700 operators. 2,700 operators can go out there and invest and think they have a business opportunity. Post-2007, 2,400 of them have not. That is why Shane cannot go to his bank manager and justify his investment.

**Q287 Mr Mitchell:** With the fridges situation, the problem was that it not only required investment like this but the equipment they were asked to invest in was imported from Germany and there were delays in getting it and ordering it. What is the case here with the kind of equipment you will be needing to invest in to fulfil these directives, eventually?

**Mr Marshall:** Some of it does come from Germany in this instance and there will be log jams because the ELV requirement is common across other European land masses. There again, we will have companies who will be told by the Agency that they will have to stop business because they will not be able to implement their plan, because there will be delays in supplying the equipment. I have every sympathy for these people. They do not know whether they have an economic future because elements of this system have not yet been defined.

**Q288 Mr Mitchell:** On the fridges, the Germans and Scandinavians sat back virtuously and said, "Goody two shoes. We have already invested in this equipment and we have it." Is that going to be the case anywhere in respect of the equipment used for these two directives?

**Mr Cottam:** Yes. Waste electronic equipment recycling is happening in Scandinavia, Benelux and Germany now, so those people have designed pieces of kit that will process this equipment.

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**Q289 Mr Drew:** On the issue of DEFRA and their relative under-powered state of inability to deal with the complexities of these issues, what did you need from DEFRA in terms of the type of skills that you have not seen from officials? Is this in any way repairable at this stage?

**Mr Marshall:** There are two areas. One is the capability to justify actions, pretty basic from my point of view. Constant change is happening and I think that is something that we deserve. Secondly, there appear to be no lawyers within DEFRA or the Agency, so issues can be held up for months and months because no one can translate the desire into the words for the words to be tested by the lawyers.

**Mr Cottam:** What we need is the three pillars on which we can make sound business investments. One, what exactly do we have to do? Two, how can this be justified and sustained? In other words, who is going to pay us to do it? Three, there is going to have to be effective regulation to ensure a level playing field. On ELV, we are faced with a situation where we have to make speculative investment because the government is two years late in implementing the legislation.

**Mr Mellor:** As part of the DTI consultation group, I have to say that DEFRA were not always represented at the meetings that we had, which I found bizarre. They are two minutes' walk down the road. I have travelled all the way from Norwich and they cannot be bothered to turn up for a meeting or they do not have the resources to.

**Mr Marshall:** I would like to add basic project management skills. This is complex. This is not the only thing that DEFRA is dealing with. They look in many directions and I think that is a fairly clear requirement: that you define your objectives early on and you plot your way through it.

**Q290 Mr Drew:** Would it have helped you if you had had a clear ministerial line of responsibility in the sense that there should have been either DTI or DEFRA taking the lead?

**Mr Marshall:** Absolutely. There are seven agencies involved in ELV. That is, DTI, DEFRA, DVLA, the Agency, CIPA, the Northern Ireland Office and HSE. It is something of a muddle and clearly there is a need for leadership. Also, I think there is a need for political engagement and there really has been very little with the recycling sector over this period. It is unforgivable. It is a major plank of the government's forward programme on recycling.

**Q291 Mr Drew:** What was the nature of the involvement that you had? Were these regular meetings? Were there many of them? What status did these meetings have? What happened—obviously, from what you said, not very quickly—as a result of these meetings? Can you explain the one that was cancelled today?

**Mr Marshall:** Today was the final consultation which defines what structure we will have for ELV. We still do not know.

**Q292 Mr Drew:** Why was it cancelled?

**Mr Marshall:** It was cancelled by the DTI. We have had formal meetings on the broad structure which have involved ourselves, the vehicle manufacturers and the major agencies. Where we have seen particular problems have been in the sub-meetings involving officials particularly from DEFRA and the Agency, where you have agreement; you go back and the position has changed completely. There is lack of justification for changes. We suddenly hear that HSE wants to get involved and bolt something on. This is all part of the mystery of the forward plan.

**Mr Cottam:** As part of the consultation process, we were asked if we would agree to investigate the own marque principle on the basis that all the other options would remain on the table. When it became apparent that we could not agree with own marque because we did not think it was sustainable, we were told that there was not enough time to investigate anything else.

**Mr Mellor:** We have never agreed with the own marque approach. We said from the outset we could not see it working.

**Mr Marshall:** All of the independent studies commissioned by government have suggested something else.

**Mr Mellor:** If we had a central fund mechanism that was going to be put into place, you would see our industry investing in that because they would know they did not have to count on getting a vehicle manufacturer's contract. They would know they will be able to handle every end of life vehicle and be paid for that vehicle. At the moment, all those things are up in the air.

**Q293 Mr Drew:** In terms of the lack of commercial expertise which you have made very clear, surely government can bring in consultants, those wonderful people? Was there any evidence of these people who came from the industry or was this all done in-house?

**Mr Cottam:** There was notably an Ernst and Young report which suggested a central fund, which was based on a visible fee on the cost of a new car. All sectors involved in the end of life vehicle directive were happy to run with that one, as was the DTI initially, and government took it away. We never had an explanation.

**Q294 Mr Drew:** Can you speculate why it was taken away? Money?

**Mr Cottam:** It was a political decision because the Tories might have cried stealth tax, I would imagine.

**Q295 Mr Drew:** Producer pressure?

**Mr Cottam:** No. The producers were happy to run with that.

**Mr Marshall:** These things are often analysed differently when situations change over the course of time. I mentioned before that there is a systemic bias towards the vehicle manufacturers within government in ELV and that is abundantly clear.

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**Q296 Mr Mitchell:** Your position—I am glad you have put it so strongly this afternoon—is quite clear and sharp. If you are told what you have to do, you will invest to do it, but you need the certainty, the clarity and the instructions. The problem is that you do not get either. Whose fault is that? Is it your impression that you have government departments and agencies being dragged reluctantly behind a European regulation they are not quite sure about or is it just that they are keen on the principle but not

quite sure how to fit it into the market because they do not have the market skills, the experience or the knowledge of the industry? Which is it?

**Mr Marshall:** I think it is a systemic bias towards the people who should be paying for it. It is as simple as that. Producers should be responsible.

**Mr Mitchell:** Thank you very much. I am sorry if I have sat there chortling through some of the evidence, but it is essentially a very sad picture of a muddle that should never have been allowed to happen. Thank you very much indeed.

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**Joint memorandum submitted by the Department for Environment, Food and Rural Affairs (Defra) and the Department of Trade and Industry (Dti) (E16)**

INTRODUCTION

1. The DTI has lead responsibility for overall implementation of these two Directives working closely with Defra, who have specific responsibilities for implementing elements of the regulations in relation to waste permitting. This partnership is underpinned by project teams involving all key Whitehall Departments, the Devolved Administrations and the Environment Agencies. DTI also had lead responsibility for negotiations within the EU, with the Environment Minister at Defra (and past equivalents) representing the Government at Environment Council.

2. The negotiation of the main body of the ELV Directive was completed over three years ago with formal publication in the Official Journal on 21 October 2000. The WEEE Directive was published more recently on 14 February 2003.

3. Both Directives seek to make producers (mainly manufacturers and importers) responsible for most of the costs associated with the end of life management of their products. This “producer responsibility” approach is based on the “polluter pays” principle with the ELV and WEEE Directives representing the first two occasions of the policy being enshrined in EU legislation.

4. However, the UK has some previous experience of producer responsibility arrangements through its domestic implementation of the 1994 Packaging and Packaging Waste Directive. Here the Government chose, after consultation with the industry affected, to use a shared producer responsibility approach to meeting the Directive’s recovery requirements. The ELV and WEEE Directives are significantly more complex and represent a challenge for producer responsibility policy development in all Member States.

5. The Better Regulation Task Force (BRTF) report in July 2003 highlighted some important issues which the Government is considering positively. A response will be available during the time of the EFRA inquiry which the Committee may wish to draw on.

6. Both the ELV and WEEE Directives provide for comitology to agree certain technical requirements of the Directives. Neither can therefore be fully transposed into UK law until a formal committee of Member States has reached agreement on the relevant issues.

*The WEEE Directive—introduction*

7. The WEEE Directive is particularly complex. It covers hundreds of thousands of products and affects a wide range of stakeholders including manufacturers, importers, exporters, retailers and the waste industry as well as local authorities and consumers. It is also different in that its requirements only apply to goods within the scope of the Directive that are “separately collected”. WEEE co-disposed with municipal waste is not covered. Member States must seek to encourage separate collection and, to ensure a reasonable level of separate collection occurs, a minimum collection target of 4 kg per head of population has been set. This is likely to rise on the basis of experience and data reporting when the Commission present their proposals for revision (a requirement of the current Directive). Business figures suggest that the UK already separately collects between 6–8 kg per head but most of this is not currently treated in accordance with the WEEE Directive’s environmental objectives.

8. The Committee may wish to note that one element on the Directive, relating to business-to-business financing (Article 9) is already being revised through the co-decision process to avoid potential accounting difficulties which came to light very late in the negotiation process.

### *The WEEE Directive negotiation*

9. DTI and Defra officials both attended working groups of the Environment Council responsible for negotiation of the original Commission proposal. To inform this debate and to influence the original proposal the DTI commissioned work on the likely environmental benefits and costs of the draft Directive (originally in 1999, updated in 2001) and DTI and Defra jointly held an initial, early consultation in autumn 2000. There were 70 responses, mainly from representative bodies with a combined membership of over 300,000 businesses.

10. The original proposal from the Commission evolved considerably during the negotiation process with key issues of disagreement leading to the conciliation process between the European Parliament and Council. Some of the UK successes are listed in the Better Regulation Task Force report (page 35) and include:

- options other than in-store take-back;
- avoiding a ban on co-disposal of WEEE; and
- removing the requirement for written dismantling manual for every product.

### *The WEEE Directive—approach to transposition and implementation*

11. Following publication of the Directive on 14 February the Government issued the first implementation discussion paper on 28 March 2003, making clear that this was the first formal element of an on-going 18 month consultation process. The paper was broad brush; explaining what each article sought to achieve, what it did not require and initial Government views. The paper also covered the related Restriction of certain Hazardous Substances (RoHS) in electrical and electronic equipment Directive. There was a parallel interactive e-consultation. This approach has been well-received and has served to keep industry involved and informed at all stages of the process. Two further consultations are planned. The next, before the end of this year on detailed implementation options and another in Spring 2004 on draft legislation and guidance. This will be supplemented by a further series of eight large seminars across the UK during the winter.

12. The Discussion paper followed on-going informal consultation with stakeholders over the previous year through conferences, focus groups and a series of over 30 nation wide awareness raising seminars. A dedicated contact list of those specifically interested in receiving updates on the Directive is also held by the DTI. The list current stands at around 2,000 and they receive regular updates. These contacts (including most of the key trade associations), the Asian Business network, the Consumers Association, 10,000 targeted SMEs and all Local Authorities were all individually notified. There were 316 responses. The paper and report can be found at:

[www.dti.gov.uk/sustainability](http://www.dti.gov.uk/sustainability) or

[www.defra.gov.uk/environment/waste/topics/electrical](http://www.defra.gov.uk/environment/waste/topics/electrical)

13. The WEEE transposition team is chaired by DTI and includes officials from Defra, the Environment Agency, the Scottish Environment Protection Agency, Northern Ireland DOE, and the SBS. The work of the team is overseen by a wider Government advisory group with officials from DTI, Defra, devolved administrations, environment agencies, Treasury, ODPM and Cabinet Office. There is no formal single stakeholder group although this has been considered. Instead a number of informal focus groups have been used as sounding boards. These include groups of manufacturers, retailers, local authorities, SMEs and the Waste industry. Officials also regularly consult the Industry Council for Electronic Equipment Recycling (ICER)—a horizontal industry membership body.

### *The ELV Directive—Preparations for implementation*

14. Since the Directive was adopted in September 2000, the Departments have carried out extensive and prolonged consultation, reflecting both the complexity of the measure and the Government's desire to avoid unforeseen adverse consequences from implementation. The Directive has implications for vehicle manufacturers and importers, ELV dismantlers, scrapyards, and shredders, as well as material reprocessors, and the motorist. One indication of the Directive's complexity is that no Member State had transposed it into national law by the due date of 21 April 2002.



15. A first public consultation took place in August 2001. This sought views on the Government's interpretation of, and intentions for transposition of, a number of the environmental and Single Market provisions of the Directive, and presented three possible mechanisms on which might be based a system for placing obligations on vehicle manufacturers and professional importers, as required by the Directive, in meeting all or a substantial part of the cost of providing free take-back and treatment of ELVs with effect from 1 January 2007. The consultation paper also discussed possible arrangements for meeting the recovery and recycling targets laid down in the Directive.

16. In total, 123 responses to the Consultation Document were received, as were a number of recommendations for implementation contained in the Trade and Industry Committee's report on 27 November 2001.

17. To prepare further for implementation, DTI formed an Inter-departmental Implementation Project Team, and an ELV Consultation Group, with a core membership of those representative organisations most likely to be affected by implementation—the Society of Motor Manufacturers and Traders, the British Metals Recycling Association, the Motor Vehicle Dismantlers Association, and the British Vehicle Salvage Federation. Defra also formed an industry group concerned solely with Article 6 of the Directive—the site and operating standards of “authorised treatment facilities”. The two industry groups were used primarily as “sounding boards” as DTI and Defra developed policy options for implementation, and met on a number of occasions during 2002 and 2003. In addition, DTI met frequently with individual members of these representative organisations, and others, in preparation for implementation.

18. A second consultation was carried out in March 2003, seeking comments on draft regulations covering all or part of Articles 4, 5, 6, 8 and 9 of the Directive. 82 comments were received.

#### *The ELV Directive negotiation*

19. The Government played a full part in the process of negotiating the Directive, from its original identification by the European Commission and Member States as a “priority waste stream”, through to its eventual adoption by the European Parliament and Council on 18 September 2000, following approval by the Conciliation Committee on 23 May 2000.

20. As noted earlier, when adopted, the Directive contained a number of issues that required further decision through “comitology”. These included a questionnaire for reporting implementation, the minimum content of the Certificate of Destruction, exemptions from the heavy metals prohibitions, and a system for marking of certain components. DTI took part in this process, and continues to do so—negotiations are still taking place on two remaining matters: a common system for Member States to demonstrate they have achieved the recovery and recycling targets; and recoverability and recycling design standards with which new vehicles will be required to comply.

#### *The ELV Directive—Transposition*

21. The Government announced on 21 June 2002 that producer responsibility for free take back of all ELVs would not be introduced until 1 January 2007 and that, until then, final owners would be responsible for the costs of disposing of their vehicles.

22. The End-of-Life Vehicles Regulations 2003 were laid in Parliament on 10 October 2003 (SI 2003, No 2635), coming into force on 3 November 2003 in UK (except for certain provisions, which come in to force later in Northern Ireland). These transpose provisions in the Directive relating to:

- Heavy metal prohibitions and exemptions.
- Marking of parts, and publication of dismantling and recycling information.
- Free take back of vehicles put on the market on or after 1 July 2002 and having no value when scrapped.
- Introduction of the Certificate of Destruction.
- Site and operating standards, and licence conditions, for “authorised treatment facilities”.

There will be a further public consultation in the coming weeks on draft regulations covering the recovery and recycling targets in the Directive (2006 and 2015) and producer responsibility for free take back of all complete ELVs from 1 January 2007.

*October 2003*

*Witnesses:* **Mr Elliot Morley**, a Member of the House, Minister for Environment and Agri-Environment, **Mr Stephen Timms**, a Member of the House, Minister for Energy, e-Commerce and Postal Services, **Ms Sue Ellis**, Head of Waste Management Division, DEFRA, and **Mr Jonathan Startup**, Director of Sustainable Development, examined.

**Q297 Mr Mitchell:** We had some fairly telling evidence from the metal recyclers which has opened our eyes on certain problems of delay, lack of clarity and ineffective consultation. What preparations are you making for a spate or certainly an increase in the number of abandoned vehicles before 2007? Are you expecting a big increase?

**Mr Timms:** Thank you for giving us the opportunity to be in front of the Committee. Both the directives are environmental protection measures but they also both have a very significant impact on UK businesses, which is why the DTI has been given the overall lead in arranging their implementation, but working very closely with Elliot's department and also with other parts of government. The Environment Agency has a big role in the work that we have been doing. We have an implementation project team separately for the two directives, involving both of our departments, the Environment Agency and others. The fact that the Committee is doing this inquiry at the moment is timely and welcome. We recently published, a couple of weeks ago on 25 November, a consultation paper on the WEEE directive, setting out government proposals for its implementation. We are inviting responses by 1 March. We have narrowed down options for implementation and we are setting out in the consultation document our preferred options for the way forward. We have a programme of regional seminars around the country to follow up some earlier events and an initial consultation that was held last spring. For the ELV directive, again, we are working towards implementation. We regret the fact that we will be transposing the directive late but no other Member State transposed it on time, which I think is significant. Also, the Committee will probably sympathise with our determination to get this right, given the complexity of the issues that we are facing. We emphasised deliberate, careful consultation in our approach to implementation. I gather from what you have just said that there have been some criticisms on that score but we have done quite a good programme on consultation. We have, for example, had an external ELV consultation group in place for two years. With the ELV directive in particular it has been hard to achieve a consensus on some of the key issues, so we now have to grasp the nettle on the most contentious ones, recognising that there will be some people who will disagree with the conclusions that we reach, but there will be a further period of consultation early in the new year.

**Q298 Mr Mitchell:** Why was the consultation paper on the ELV, which was due tomorrow I think, cancelled?

**Mr Timms:** We are expecting to consult early in the new year.

**Q299 Mr Mitchell:** We were told by the metal recyclers that it was cancelled.

**Mr Timms:** No. It certainly has not been cancelled.

**Q300 Mr Mitchell:** The consultation paper which was due tomorrow?

**Mr Timms:** It is going to be published in the new year.

**Q301 Mr Mitchell:** Do we know when?

**Mr Startup:** We have certainly not had anything which was on the stocks for publication tomorrow which has been cancelled.

**Mr Timms:** There are some misapprehensions around in this area.

**Q302 Mr Mitchell:** When you say every other state was late with the directive, is that some particular difficulty with the directive?

**Mr Timms:** I think it has proved to be an extremely complex directive. It has taken us a fair amount of time to get our heads round these things and reach a proposed way forward. I guess that has been everyone else's experience as well. Nobody at all implemented on time.

**Q303 Mr Mitchell:** The problem that the metal recyclers have given us is that there has not been sufficient clarity—I am talking now about the end of life vehicles directive but I think it also applies to the WEEE directive—in the instructions and the decisions made so that they cannot invest as they are going to have to invest to fulfil the intentions of these directives. Until government and the agencies—I accept there is a large number involved—gives them a clear definition of what has to be done and how, they cannot get money from the banks; they cannot invest and they cannot begin to operate. It is getting dreadfully late in the day.

**Mr Timms:** There will be a preferred way forward in the consultation document that is published in January. In the case of the WEEE directive, there has been much less contention. I hope that it will be much clearer for everybody where we are going on the ELV directive once the document is published in the new year.

**Q304 Mr Mitchell:** The argument has been that officials and departments do not seem to know the way the market operates or what is to be done to kick start investment in this area and it is getting late.

**Mr Timms:** I do not agree with that. We have certainly been through a very thorough, lengthy process as a result of which we are in a position to put forward a preferred way forward in the document in January. I think that will be based on a good understanding and certainly an enormous amount of discussion with everybody involved. There is a wide range of different parties with an interest in this. There is, I think, quite a good understanding of how the dynamics of this market operate. I accept that some people will disagree with the conclusions we have reached, but I think that is inevitable.

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**Q305 Mr Mitchell:** The argument was they had to apply in January and the applications were to go in before it is clear what they have to be doing.

**Mr Timms:** I do not think they will. We will be consulting in January. The document will be published in January. There will probably be a slightly shorter consultation period than there normally would be because there have been earlier rounds of consultation and then we would hope to be able to lay some regulations in March. That will be in adequate time for people to do what needs to be done.

**Q306 Mr Mitchell:** The clarification I have on the final consultation is that the outcome on the ELV directive, which was due tomorrow, has now been postponed.

**Mr Timms:** There was nothing due tomorrow.

**Q307 Mr Mitchell:** So nothing in December but something in January? Is that what we are hoping?

**Mr Timms:** Yes.

**Q308 Mr Mitchell:** What preparations are you making for a festival of abandoned vehicles up and down the country before 2007? Is this a threat?

**Mr Morley:** DTI are the lead department on this issue. DEFRA is obviously involved on permitting, licensing, and the Environment Agency functions. Although abandoned vehicles are not a DEFRA lead issue in relation to waste management, we do have an involvement in this. In that respect, the government has made additional sums available to local authorities for dealing with the problem. We are not convinced that there is going to be a problem on the scale that some people have predicted, but it is inevitable in the transition period. Abandoned vehicles are a problem now which is why we have put measures in place, not only the funding but also we have given enhanced powers to local authorities in relation to the shortening periods of notification. We have run some experiments. We are giving local authorities powers to clamp and remove cars which are unlicensed. A lot of abandoned vehicles are unlicensed which is not a surprise, because they are often uninsured as well. The problem of abandoned vehicles goes much wider than the issue of the end of vehicle life directive. We do believe that both these directives from the DEFRA point of view are very desirable in relation to the outcomes that we will see. A free take back service for vehicles will certainly resolve the problem of abandoned vehicles which is a very longstanding one that has become worse in recent years. Also, the WEEE directive will help us meet our targets on recycling and reuse. In that respect, both these directives fulfil a very useful role. It is true that the details on the end of life vehicle directive are very complicated. It is not an issue just with our country; it is an issue with a number of countries. There are a number of options that have to be considered about the way forward and that is why there is quite detailed consultation and issues have not been resolved. I do not believe that is the case with the WEEE directive, where I think people

are generally satisfied with the way that the consultation process has taken place. We are clear on the direction in which we are going on that.

**Q309 Mr Mitchell:** I am not arguing with the objective of the directives but on *a priori* grounds surely it is to be expected—it certainly happened in the case of fridges—that if you cannot dispose of them and the fridges could not be taken back to Dixons or wherever to exchange for new fridges, and if you are going to have to pay to get the car disposed of instead of just being able to sell it for scrap metal value, there is going to be an increase in abandonment?

**Mr Morley:** There is a difference in the case of fridges. The problem with fridges is that there was no capacity at the time to deal with them. We do have capacity for end of life vehicles and WEEE for that matter.

**Q310 Mr Mitchell:** There are various environmental requirements which require investment by the people who are going to dispose of the vehicles.

**Mr Morley:** Under the new directives that is certainly true but at the present time the main reason for an increase in abandoned vehicles is the value of scrap. Instead of getting a small sum of money from scrap vehicles, now it has changed and you have to pay. The value of scrap has changed. I notice that my own local scrap yards are now offering to take vehicles free of charge and that is a market pressure.

**Q311 Mr Mitchell:** Scrap has gone up now, we are told.

**Mr Morley:** That is absolutely right. We are not complacent about this. We do understand that there may be a transitional problem which is why we are working with local authorities and the Home Office and looking at a range of measures as to how we can deal with this.

**Q312 Mr Mitchell:** Are you going to help local authorities to face that transitional problem financially?

**Mr Morley:** Yes.

**Q313 Mr Mitchell:** You certainly had to pay afterwards with the fridges saga.

**Mr Morley:** That is right. We have made £21 million available in the current financial year and we will make a similar sum available next financial year as well.

**Q314 Mr Mitchell:** What about the registration procedures? Now we have continuous registration by DVLA. Is that going to help?

**Mr Morley:** We believe that it will make a big difference, yes.

**Q315 Mr Mitchell:** In terms of local authorities, I was struck in north east Lincolnshire which always lags behind north Lincolnshire, I am sure, that the problem of dealing with vehicles being disposed of was (a) finding out the owner which took too long and meanwhile the vehicles was left on the street,

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was vandalised and eventually became a fire risk so the Fire Brigade then has to have it taken away quickly; (b) there was the development of some pound or protective place where the vandals could be kept away. The vehicles could be towed and there was a waiting period to find out who the owner was. Is this going to be financed on a scale that is commensurate with that kind of problem?

**Mr Morley:** I am sure local authorities would always argue that they could use more money, but we have certainly made this money available to address problems such as having a secure place to store the vehicles. We accept there is a cost in that. We also recognise that there are hot spots in relation to abandoned vehicles. You find in some parts of the country this is much more prevalent than others. Perhaps north east Lincolnshire is one of them. It does not appear to be a major problem at the moment in north Lincolnshire, but that is because they are all going to north east Lincolnshire. We have identified 30 hot spots around the country where we are working with local authorities, with DTI jointly, the Home Office and DEFRA about how we can give some extra support to those areas where there are particular problems. There are ten schemes set up and running. There has been one in London as well, Operation Cubitts, where we have concentrated on where there are particular problems and I am sure we can continue to do that.

**Q316 Mr Mitchell:** Are these hot spot schemes trial areas which will eventually be extended?

**Mr Morley:** They could be. They are certainly trial areas addressing parts of the country where abandoned vehicles are a particular problem.

**Q317 Mr Drew:** I think it is fair to say that on the evidence we have taken there is a marked difference in terms of those who have submitted evidence between their confidence in the ELV and the Waste Electrical and Electronic Equipment Directive. We have been told on a couple of occasions that in terms of the government approach to this there are seven different agencies including the two departments. Was there not a need from the outset to have a clear lead in one ministry and all the different component parts reporting to that ministry? From what we have been told, there is confusion with ELV, about who is doing what, about the level of competence within the ability to introduce this, and this is now at least causing a great deal of concern in the metal recyclers.

**Mr Timms:** The position has been clear. It is a DTI lead with an implementation team drawing on the other agencies that you have described. I am not aware of anyone having been unclear that that was the position.

**Q318 Mr Drew:** You were not present but I am sure you will read the evidence. In the previous session, they were very critical of DEFRA. It is easy for me to blame poor old DEFRA but the arguments go something like this: they felt that the DEFRA team was under-powered, did not have the requisite legal advice, did not do enough responses quickly enough. That is only one part of it but the metal recyclers are

key. If we are not going to have a rather difficult period to go through, they are key to how they invest in their industry and they work with the producers to make sure we do not end up with these surplus vehicles.

**Mr Timms:** We certainly recognise the importance of the metal recyclers as critical players in this. Indeed, I have a meeting with the Association shortly. For that reason as well I will be reading the evidence they gave to the Committee. It is a DTI lead in relation to this so I am not quite sure why the criticism would be levelled in that way.

**Mr Morley:** I think they are a bit confused. Because it is recycling, they think it might be a DEFRA lead. It is very clearly a DTI lead and I do not accept the criticisms of our DEFRA team, who I think have been working very hard in this and they are very sensitive to the needs of the recycling sector.

**Q319 Mr Mitchell:** The argument was that it takes a long time for investment to come through and to be paid off. There might be a queue for the equipment but we are talking about investment for four, five or six years. To justify that investment, they need absolute clarity in what they are being told to do. They have not had clarity. The officials do not know the market and the way the industry works well enough to give them clear instructions as to what they are expected to do.

**Mr Morley:** I would dispute that. I think it is in the interests of the metal and recycling sector that we do not rush into this but we take a bit of time to get these details right. I have a suspicion that some of their assumptions on the kind of structures that we put in place may not necessarily be right.

**Q320 Mr Mitchell:** They are asked to apply for licences and make the investment in January next year and they still do not have the clarity they need so that they know whether to apply or whether to make the investment and what in.

**Mr Morley:** I have some sympathy with that, but there is a number of choices and there are pros and cons to all those, including some favoured approaches from the metal and recycling industries that we need to take into account. Those discussions are still underway. It is not unique to the UK. These are complex issues. All the big European countries who have big car markets and a large number of end of life vehicles are in exactly the same situation.

**Q321 Mr Drew:** When do you envisage this ELV directive coming into law? What is the slowest this could be? Let us go for a happy medium.

**Mr Timms:** What we are hoping for is that we will publish a consultation paper in the new year and have a slightly abbreviated consultation period on that and then be in a position to lay the regulations in March with implementation in April.

**Mr Drew:** That is a very short consultation.

**Q322 Joan Ruddock:** I am now getting extremely confused because it sounds as though, on the one hand, the industry should be investing if it is going to meet that timetable but, on the other hand, Elliot

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Morley has told us that perhaps they should not be investing, the implication being that they should wait until it is very clear that everything has been sorted, but between January and March is no time at all, is it? What is the reality? Should the industry be investing now or not? It seems to me that is a question which has to be posed and which was posed by them to us.

**Mr Morley:** They need to know and hopefully this will be resolved in the very near future by the preferred way forward. Then we will have a consultation. They can respond to that and then we will be within the timescales that Steve has outlined.

**Q323 Joan Ruddock:** Will they not need new licensing, for example, if they are going to change the operations of some of their sites? New planning consents?

**Mr Morley:** Some may; some may not.

**Ms Ellis:** DEFRA was responsible for the permitting requirements of the treatment facilities. The regulations were laid at the beginning of November and they specify what the requirements are for those sites in terms of their technical standards and capabilities. The guidance on that was also issued in November, so the regulations and the technical guidance required for the treatment facilities are already there. The point that the industry was making was that, whilst they might know already what they are required to do on a particular site, they cannot go to their bank manager because they are not sure of the contracting position and the position that the metal recyclers are going to be in with the new system. It is not that they do not know what is required for the sites, because they do, but they do not know who their contractors will be and what the capacity will be.

**Q324 Joan Ruddock:** I appreciate that, but the fact is, even if they know, the consequence of not having the other part of the equation known is that they feel restrained from investing. That is the point at issue here. We heard that only one company out of a potential 2,500 had made the appropriate investment. If that is the case, it seems a great problem to have the industry up and running in a fit state by March.

**Mr Morley:** I may be wrong but I think they meant one company with a number of sites.

**Q325 Mr Drew:** We are getting the message certainly from one end of this food chain of these types of material disposal mechanisms that you have been a bit soft on the producers. We are talking about ELV. Less so with the electrical equipment. Where there is manufacturing capacity within the countries of the EU, including the UK which we are intrigued about because it is good to know we still do produce cars, it seems that we have been somewhat more *laissez faire* in the way in which we have approached producer responsibility. What is your response to that allegation?

**Mr Timms:** We manufacture a lot of cars in the UK and we think that is a good thing. I would imagine the concern being raised is that it is the own marque approach which is emerging as the favoured option.

**Q326 Mr Drew:** That is where they are critical. They do not like that.

**Mr Timms:** I understand that. There are really two strong arguments in favour of it. Firstly, it is the most natural interpretation of the producer responsibility principle. I think everybody agrees—the polluter pays—that the producer should take responsibility. The own marque approach is a pure implementation of that principle that each manufacturer is responsible for the vehicles that they have produced. I think that is a strong, telling argument in favour of the own marque approach. The second factor, I understand, is where we get into areas where there are differences of views. The second factor is that it is true that the car manufacturers, having been told in no uncertain terms that what was called option four, which they originally came up with, was not acceptable—we were very firm about that, contrary to the wishes of the manufacturers—and having understood that we were not prepared to go down that road, did converge on the own marque approach as their second favoured option; whereas others have argued for different approaches. The fact that it is so closely tied into the producer responsibility principle is a strong argument in favour of the own marque approach, quite apart from the views of the manufacturers.

**Q327 Mr Drew:** The criticism is that this will drive out smaller firms. The only survivors from the waste disposal end will be the larger companies because they will have the wherewithal. Is that inevitable?

**Mr Morley:** We do not believe it is inevitable in DEFRA and we believe there are ways of shaping the regulations to ensure that that is not the case.

**Mr Timms:** As I mentioned earlier on, I will be meeting the Association shortly and I will be keen to explore these issues with them.

**Q328 Mr Mitchell:** The metal recyclers argue that it will be the bigger firms that, under own marque, get the contracts with the producers. The smaller firms will therefore find themselves without a guaranteed supply. With the old system of end of life vehicles breaking down because we are in transition to a new one, they are going to have a cost burden which is too heavy for them to bear on the work that is going to be coming through to them.

**Mr Startup:** We are talking about two stages here in the recycling process. There are the so called dismantlers who take the vehicles in, will depollute them under the new regime and then pass them on to the metal recyclers, as they are called, or the people who run the shredding plants who then turn them into scrap for passing on to the steel industry and so on. The British Metal Recycling Association and that industry are dominated by a couple of large firms as they are. The majority of small businesses are in the dismantling sector. They will continue to

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contract individually with the vehicle producers to deal through a network of centres with the vehicles of those producers' own marques. They in turn will sell the depolluted hulks of the vehicles on to the MRA members. There can be no guarantee clearly that any given dismantler will get a contract with a producer to be part of their network, but there will need to be a sufficient network of dismantlers to provide the capacity and the geographical coverage to ensure that someone with an end of life vehicle can take it to a reasonably accessible centre and get it accepted back free of charge to the last owner. We will be looking very carefully at the network of facilities that the producers put in place to discharge their obligations and there will have to be a very substantial network to do that.

**Q329 Mr Mitchell:** The network but not necessarily the competition within it, because I can see the metal recyclers nodding in disbelief as you answer that question. On *a priori* grounds, it must surely be that the smaller people are going to face a much more uncertain prospect as the network is built up and as the producers come to their own contracts with the big boys.

**Mr Startup:** I do not think we would accept that. The dismantlers as now will continue to take back the vehicles. The producers will need to contract with those covering a large number of facilities. Obviously, there can be no guarantee about any individual plant that they will get a contract, but they will be negotiating with the producers to provide an adequate network. The producers need both the dismantling network and the metal recyclers in order to discharge their obligations just as the dismantlers and the recyclers need the producers to make up any residual costs and provide the vehicles in the first place.

**Q330 Joan Ruddock:** What is a reasonable distance to take a vehicle?

**Mr Startup:** That will vary in different parts of the country. Ten miles has been suggested as an indicative figure but ten miles within London and ten miles in the Scottish Highlands are rather different propositions. It is likely that we will have a flexible set of criteria against which the adequacy of the network will be judged and we will be looking at them on a case by case basis, rather than laying down one set of hard and fast rules which have to be met regardless of where in the country or indeed regardless of the size of the producer. Clearly, the bigger producers will have larger numbers of vehicles which will need to pass through their network. The networks will need to provide sufficient geographical coverage but also the capacity to deal with the numbers of vehicles of that marque passing through the system every year.

**Q331 Mr Mitchell:** There is a prospect there of these big lorries transporting gleaming new vehicles to market, going back with the junk, the scrap and the abandoned vehicles—in other words, cluttering up the roads.

**Mr Startup:** The dismantlers' network will need to be sufficient to ensure that someone with an end of life vehicle can access it with reasonable convenience. It will not be a case of handing it over to somebody on the side of a road who will then transport it away, although people may offer to transport it, but the depolluted hulks are already taken from a large network of dismantling facilities to a much smaller number of shredding plants because they have a much larger capacity. That is happening already.

**Mr Morley:** Individual dismantlers can contract with more than one marque, so they can handle a number of marques at one site.

**Q332 Joan Ruddock:** I notice far more abandoned vehicles in my London borough of Lewisham than I do in the Scottish Highlands. What is going to be a reasonable distance in London? We have heard ten miles quoted elsewhere so ten miles is doing the rounds as though it is going to be ten miles for everybody with an old car, but it is not going to work in London.

**Mr Startup:** Ten miles was an indicative figure given in one of the earlier consultations but we have never been wedded to that precise figure. I think it is likely to be very much less in London.

**Q333 Joan Ruddock:** I hope so. We have heard a lot of other people's evidence and confusion and concern around who is going to collect, treat, recover and dispose of waste in respect of WEEE. I want to know from either or both of the ministers present what progress has been made in developing a system for distributors and producers to fund the collection and the disposal of WEEE. That is the key point. How is it going to be done? How is the funding going to be done? What can you tell us about the role that you have had in those discussions?

**Mr Timms:** We published a consultation paper last month, which you will no doubt have seen, making some proposals about how all of this will work. What we are proposing there is, first of all, that we will look to retailers to produce a fund. We proposed £10 million as the level of it to assist in meeting the obligations on the retailers. There will be a need for every single retailer to offer in store return. We have also proposed—I know this is strongly supported amongst the producers—the idea of a clearing house, looking after things like calculating market shares and organising things on the producer side. I think we do have quite a well worked out approach to take forward. I guess that the area where there is still a good deal of discussion needed is on the retail side of this. I think we are making some progress there but there is undoubtedly some work still to be done.

**Mr Morley:** From the DEFRA side, we see this as very important in relation to hitting recycling and reuse targets. We also see that there is an opportunity for local authorities in relation to the facilities they have for collecting WEEE and recycling it. They will have access to the clearing house. They could also potentially have access to some of the funding to help them develop their

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collection centres and their recycling centres. We recognise that local authorities do not have responsibility in this. Therefore, we are not expecting them to have additional financial implications as a result of these changes, but we see them as having a role receiving some of the money which the producers will be paying to help them develop their facilities and fulfil that role. I think that will be mutually beneficial on both sides.

**Mr Timms:** We envisage that of the ten million fund about half would be available for local authorities to be used in the way that Elliot has described.

**Q334 Joan Ruddock:** The local authorities, when they came before us, were adamant that this was not their responsibility. If we are talking about a £5 million funding package, is that likely to be sufficient for all the needs of all the local authorities?

**Mr Morley:** I think it depends on individual local authorities. Most local authority civic amenity sites have a provision now for the collection of electrical waste and quite rightly so. My local one does it very well. This is an opportunity for local authorities who already have these provisions in place to expand them if they choose to do so and receive finance to do that. That expansion may be also useful in relation to their own local collections. We certainly recognise that it is not their responsibility. We also recognise that if they want to expand their role they should receive financial support to do that. This fund is a way of doing it. It is initial funding and the local authorities can expect to receive about 50% of it.

**Q335 Joan Ruddock:** You say if they choose? There will be no obligation?

**Mr Morley:** No.

**Q336 Joan Ruddock:** A local authority that does not develop this facility will not be under pressure to do so?

**Mr Morley:** Not under the WEEE directive. As you well know, local authorities have obligations under our reuse and recycling targets. That is somewhat different.

**Mr Timms:** Could I add a little to that. I mentioned the £5 million figure and we expect that to be the value of the fund in each of the five financial years in 2005–10.

**Q337 Joan Ruddock:** In each year?

**Mr Timms:** Yes, it is an annual amount. There is not a mandatory requirement, as Elliot has said, although my impression is there is actually quite a high degree of enthusiasm on the part of local authorities to improve their facilities and this does give them access to some funding to do so.

**Q338 Joan Ruddock:** We heard that there is no doubt from the point of view of small retailers, for example, they did not think a bring back system was in any sense going to be appropriate to them and they thought it was much more effective to have local authorities collect, and I think we all understood that. The ESA specifically said to us that they

thought that civic amenity sites were absolutely critical to this whole process. Are you agreeing with the ESA, despite the fact that there is going to be no obligation on local authorities? Do you believe that civic amenity sites have a critical role to play?

**Mr Timms:** Certainly I agree they have got a very important role to play. As Elliot said, I think the evidence we have is about half of current civic amenity sites already provide separate collection for WEEE and it would cost about £12 million to increase that by another 30%. So given that stream over the next five years—

**Mr Morley:** Annual funding.

**Mr Timms:**—there is an opportunity to significantly increase the proportion and I think local authorities will want to do that.

**Mr Morley:** Through our rep schemes and funds we are developing a market for recyclables, including metals and some of the by-products of this. Local authorities might find that to their advantage. If they increase their collection of WEEE it does count towards the targets which they are obliged to follow. There are advantages for them in relation to participation. There are also community groups who refurbish electrical items like washing machines and fridges, for example, and they would also want to be involved in the scheme and the collection as well.

**Q339 Joan Ruddock:** Do you think anything needs to be done to make the expansion of the CAs more straightforward? We heard possibilities of difficulties with the kind of arrangements that would need to be made, particularly where the facility will have to be made much larger to take the much larger proportion of materials and there may be licensing issues.

**Mr Morley:** It might be the case but, there again, from the local authorities' side of collection it could be to their advantage in relation to improving their facilities generally and receiving some financial support for it.

**Q340 Joan Ruddock:** Where will that financial support come from?

**Mr Morley:** From the fund.

**Q341 Joan Ruddock:** From the same fund?

**Mr Morley:** That is right.

**Q342 Joan Ruddock:** There are no additional monies on the table anywhere, are there? This is the money that they will have to make this possible.

**Mr Morley:** In relation to WEEE, although there are additional funds for waste recycling generally which are administered by my department.

**Q343 Joan Ruddock:** Okay. One point that could be seen to be quite a small one but I am very passionate about it, I have to say, is I have had great difficulty persuading the House authorities over many years to put recycling in this building, the whole of the estate, the latest of which has been printer cartridges. We have received written evidence suggesting that printer cartridges should be included whereas we

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understand that they are not included. I just want to pursue with you why that should be. We have been told, for example, that over the lifecycle of a laser printer, ten times more waste by volume results from the replacement of cartridges than does from the disposal of the printer itself. I have to say that is quite consistent with what I see happening in my own office. Why not?

**Mr Timms:** You say it is a small issue but Elliot and I were talking about this outside and it is certainly by far the biggest issue in terms of the postbag that I have received, and I think Elliot has received as well, and has attracted, rightly I think, like you, a very high degree of public interest. I think the position is that the Directive as it is drawn up does not cover consumables. Printer cartridges are consumables and they are just not in the scope of the Directive, unless they happen to be in the product when it is discarded. I think the concern, which I completely share, that manufacturers should not be doing things to stop cartridges being recycled is a very fair point and I agree with it, but it is not something that is to be addressed through the Directive. The Directive is about finished, complete equipment rather than about the consumables that the equipment uses.

**Mr Morley:** I think the concern is the so-called "killer chip". This is not associated with Grimsby's very fine fish and chip shops, I have to say. The concern is that this encourages manufacturers to have a chip which makes it impossible to refill and reuse the cartridge. I have every sympathy with that, I think that goes against sustainable production and consumption. It is a trade issue, it is an argument about how companies operate. I think it is a serious point but it is separate from this particular Directive. I want to see this industry do well, it is an important one, it is about sustainable reuse and I very strongly support that. I think there are ways of addressing it without it necessarily being within the Directive because, as Stephen says, whether we like it or not the advice is very clear that it is not within the scope of the Directive.

**Q344 Joan Ruddock:** So we will have to address it elsewhere?

**Mr Morley:** Yes.

**Q345 Joan Ruddock:** Thank you very much for that. Finally, what lessons do you think have been learned from the implementation of the ELV Directive which now has produced what I think by consensus is a much better approach to the WEEE Directive? In a nutshell.

**Mr Timms:** Let me start and then I will ask Jonathan to comment on this. I think we have been through a rather difficult process over a period with a succession of these measures and I think we have got better each time as a result of learning from the previous—

**Q346 Mr Mitchell:** So you should after the mess of the fridges.

**Mr Timms:** Certainly there were some lessons to be learned from that experience. Essentially what we have to do and what we are doing, with the ELV Directive as well, is engaging fully and in detail with all of the parties affected in order that we have a good understanding in government of the way the affected industry works and can frame the regulation correctly and get the judgments right that go into making that. Jonathan, let me ask you to comment on the lessons that we have learned.

**Mr Startup:** I think from the Department's point of view, first of all the two Directives, although they are producer responsibility Directives, are very different. For instance, the End of Life Vehicles Directive is concerned with a relatively homogenous product with, albeit quite a large number of businesses, a limited number of players in terms of the part they play. The Waste Electrical and Electronic Equipment Directive, of course, affects potentially a very much wider range of products because of its scope. I will qualify the point by saying that you are looking at different processes and different kinds of measures here. As the Minister said, I think we have got better at consultation. Even as we have gone on we have tried to keep close to the industry. Obviously we cannot satisfy everybody all the time but we have tried to ensure that the industry are aware of what we are doing, that we are talking to them as the policy develops rather than just coming out with a proposal in a consultation document and expecting reactions to it. With the WEEE Directive, of course, because of the number of businesses affected and the relatively low levels of awareness, we instituted, even before the Directive was finally concluded in conciliation last year, a series of seminars up and down the country to increase awareness and to enable people to ask questions and for us to explain proposals. We have been running those jointly with Defra and with the involvement of the DTI's Small Business Service. The other point which I think is now thoroughly embedded and is a reflection of some of the changes that have taken place within DTI itself and other departments over the last few years, is the much more conscious and deliberate application of a project management approach so that we see the task of negotiating and then implementing a Directive in terms of a project with certain milestones of things that have to be met. We have tried as we have gone on to apply project management disciplines. At the end of the day, of course, the timetable is not always within our gift and we are concerned that we get it right rather than we are simply driven by the need to produce something on a set date. That has been particularly the issue with the End of Life Vehicles Directive where because of the very strong, and quite understandable, views of the different players in the market we have gone back to them a number of times and there have been several iterations of this consultative process after the very first consultation carried out several years ago with refinements of the proposals, and we are still doing that now, hence the delay in producing the latest consultation.



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**Q347 Mr Drew:** The role of the Environment Agency in terms of both Directives is going to be key. Can I ask you—I presume Stephen will give a slightly different perspective from Elliot—what new resources are the Environment Agency going to get to deal with this? I am more interested in the expertise rather than the pure cost base because clearly, if what we have been told is true, there does seem to be a lack of expertise currently available. I would just like to know where are we going to get these people from who are going to come in and do this work?

**Mr Morley:** If I can deal with the environment side, which is a responsibility for Defra. The Environment Agency overall has a budget increase. How it allocates its budget is a matter for the Agency being an autonomous body and it makes its own priorities in relation to the workload that it has. It is fair to say that the Agency is on a rising curve of responsibility at the present time and we do recognise that within Defra within the restraints that we have ourselves in relation to our budgeting. It has received an increased budget and we do talk to the Agency about the way it approaches this. I should think there is an awful lot of expertise within the Agency. I think sometimes when people say they do not understand, it is usually code for “will not give me what I want” generally speaking. I am not at all convinced by that particular argument. I think that the Agency does work very hard to try to understand the needs of the various stakeholders it deals with and tries to advise them and support them in relation to the changes which are coming through. That is what we would expect them to do from Defra and it is the kind of approach that we would want to encourage.

**Q348 Mr Drew:** Can I just be clear where you perceive this fitting within the Environment Agency and what area of responsibility, or will these be completely new sectoral arrangements within the Agency?

**Mr Morley:** I think the main interface would be permitting and in that sense permitting is nothing new for the Environment Agency, it has been established for a very long time.

**Ms Ellis:** It will just be an extension of what they do already. They already license and inspect and monitor and enforce facilities that are recycling both end of life vehicles and waste electronics equipment. What it will be doing is just an expansion in terms of the fact that there are very specific requirements for those treatment facilities within both Directives. It is really only an extension of what they are doing now. If there is licensing, permitting activity involved then the Agency does recharge on a full cost recovery basis for that work, so in that way it will be funded as they go along.

**Q349 Mr Drew:** I suppose the corollary of that is the degree to which the Agency, at least in its early incarnation of having to take responsibility for this, will exercise a light touch or are we going to be hard from the word go? In a sense we are caught between the devil and the deep blue sea. If we go in with lead

boots on, we could end up with a lot of companies going under because of unwillingness to meet these standards, but if we are not tough we are going to end up with a lot of abandoned cars under ELV or abandoned pieces of electrical kit. You are damned if you do and you are damned if you do not.

**Mr Morley:** I think the answer to that is the consultation process and the reason why we are trying to get this right. We are under an obligation to apply these regulations and we run the risk of infraction ourselves as a Government if we are not applying the European Directives and regulations properly. There was a point I was going to add to what Stephen was saying in terms of lessons learned. One of the reasons why I think the WEEE Directive has been going a lot better is that it is a lot more flexible as a Directive and that is a lot to do with a lot of the input from PUK. Sometimes these regulations are embraced very enthusiastically without thinking about all the difficulties and problems that go with that. We have a responsibility as well as a Member State but it is an issue that we need to resolve in the formulation of the Directives to address some of these addresses properly before they are framed and put within a timescale and then there are arguments about interpretation and what applies and what does not, which you do get from time to time. That is just an aside on that particular point.

**Q350 Mr Drew:** Is this an industrial mindset, that it is easier to deal with the industry in terms of electrical kit but cars—to put it bluntly—are big boys toys and they do not break down metaphorically—

**Mr Morley:** I think they do.

**Q351 Mr Drew:** — into the nice caring, sharing, “we are going to sort this out” industry, there is a degree of conflict in that industry?

**Mr Morley:** I do not know whether it is actually conflict within the industry. I do not think it is unreasonable that people within the sector in relation to end of life vehicles want to be clear about where things are going. There have been some differences of opinion legally on interpretations of what applies and what does not and they need to be resolved. We have a role in that to give clarity and that is what we are attempting to do. I think that is why there has been a difference between the two particular Directives. I think one has been framed in a much more flexible way, a much more thorough way, than the other.

**Q352 Mr Drew:** One last point, which is slightly at a tangent from looking at the role of the Environment Agency, but we did not pick it up and we should have done. That is the stage at which for the ELV the central fund idea was dropped. When did that happen and why did it happen?

**Mr Timms:** This was in the early process of setting out the options. Originally, as I mentioned earlier, there were four options that were proposed. There was one of those around tonnage targets, if I remember rightly that was the expression that we used for that, and in the light of the consultation we

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decided not to proceed with that. Again, I would point to the advantages of implementing this Directive in a way which gets us as close as possible to producer responsibility, which is a principle that everybody agrees with and which is very clearly, very strongly reflected in what is now the lead option, the “Own Marque” option.

**Mr Startup:** The idea of a fund was one amongst many options that emerged from the original discussions. I think there were concerns about how efficiently it would operate and whether it would represent full and effective producer responsibility. As the Minister was saying earlier, we concluded that the “Own Marque” approach represented the purest form of producer responsibility and that is why we have been concentrating on that one.

**Q353 Mr Drew:** We were told—Elliot will come back in in a minute—that your own Ernst & Young report, which you commissioned, was very supportive about the idea of a central fund.

**Mr Startup:** Ernst & Young were quite supportive of it, it is true, but the issue was not simply whether it could be made to work, which undoubtedly it could, but whether it would provide the real producer responsibility that we were looking for, and indeed whether it would be acceptable to all the players in the industry. The problem with the consultation on the End of Life Vehicles Directive was that there were any number of options but no one option emerged which all the players were able to agree on, which is why in a sense we find ourselves having to take the judgment of Solomon and say what we think will best deliver the requirements of the Directive.

**Mr Morley:** I think that is a fair point. It is one of the problems of the End of Life Vehicles Directive that there are a number of approaches and each approach has pros and cons and we have to try and weigh those up. A central fund has advantages and disadvantages. One of the disadvantages of a central fund is that it is more likely to be passed on to the consumer, the cost of that central fund, while the approach that is under discussion of marque liability is that there is an element of choice between manufacturers about how they do this in their contracting with dismantlers and taking it back and there are going to be different levels of contracting and market decisions about whether that is passed back on the prices or whether, indeed, it is absorbed within the company. There is more chance of it being absorbed and more connection with producer liability in that kind of approach than others. I accept that all these different approaches have their different advantages.

**Q354 Joan Ruddock:** On that very point as to whether the producer pays principle actually ends up with the consumer paying. I hate to ever quote the *Daily Mail* but I am told they have informed their readers that they are going to pay £12 for a television and 70p for a vacuum cleaner under the new Directive. I think we want to explore with you the extent to which the producers will indeed pass on the costs of this exercise to the consumers?

**Mr Timms:** It is clearly to be a matter for the manufacturers. There is a cost, there is no question about that, and it will be for the producers to decide how they manage that. I think it is worth making the point that there are some important opportunities for producers here as well because there is scope certainly for innovation in product design which will allow these costs to be reduced and conceivably, I think actually quite likely, some opportunities for competitive advantage to be gained from producers addressing the recycling issue in an innovative way. There will be costs and whether manufacturers choose to pass those directly on to the customer, to absorb them in some way, will be for them to determine.

**Q355 Joan Ruddock:** On those opportunities, do you think that redesign is likely to make recycling cheaper? Is there evidence being collected to this end? How much do we know about the process of incentivising, for example?

**Mr Timms:** Certainly I have had conversations with manufacturers who have been very positive about the opportunities for them to be clever about the design and seeing for themselves some commercial opportunities. If they can design their products so that they are more easily and readily recyclable then that is a commercial benefit for them. I think that is an important benefit, not just of the Directive but of the way we are implementing it, that there is scope there for manufacturers to be creative and innovative.

**Q356 Mr Mitchell:** I wonder if it is going to be a large benefit. Producers produce for a world market and Europe is only a part of it. While it might be an imperative for the European producers now to produce designs that will be more easily disposable, it is not going to have much impact on China where most of the manufacturing is done, is it? That is a hope rather than a real prospect.

**Mr Morley:** You can turn that argument around. You are quite right that a lot of manufacturing has moved to China but a lot of the market is within the European Union. We are already seeing what I regard as undesirable in that, for example, it is cheaper to weld parts of washing machines or white goods than to screw them, it is just cheaper, and it makes it harder for them to be repaired and to be recycled. Again, we ought to have at the back of our minds a policy of sustainable production and consumption and these kinds of Directives do bring about quite desirable changes in the design of a range of electrical goods because they will have to be recycled, and it is part of the obligations upon them. I think there are some really quite desirable results of this and I think it will spread to countries like China because of the size of the EU market.

**Mr Timms:** There is a good deal of interest in this subject in other parts of the world as well, in the US and certainly Japan. It is not only Europe that is looking at these issues at the moment.

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**Mr Startup:** If I might just mention that members of my team have attended seminars in both China and Japan with the electronics industry and there is a great deal of interest in the opportunities as well as the other issues raised by this Directive there.

**Q357 Mr Mitchell:** These are likely to be at the forefront of a wave of Directives to come and it looks like we are embarked on a gradually learning process up from fridges.

**Mr Morley:** Up from fridges.

**Q358 Mr Mitchell:** Are you likely to put new structures in place to ensure that the implementation is smoother in later stages? What have we learned from these two and the fridges?

**Mr Morley:** Certainly I think we have learned that we must have an adequate run-in and preparation period in terms of preparing for these kinds of changes. Also I endorse what has been said about the structures of consultation, good and effective consultation is very important.

**Mr Timms:** I would echo what Elliot said earlier about the need for the Commission as well to learn and to work out what works well and what is easy to implement and what is hard.

**Mr Mitchell:** Thank you very much, it has been very interesting. It is unfortunate, in some senses, that we could not bring the metal recyclers up here to take our place to put the point that they were signalling from the back. I cannot read semaphore since my Boy Scout days. We are grateful.

**Mr Drew:** It would be an interesting meeting, Stephen.

**Mr Mitchell:** Thank you very much.

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# Written evidence

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## **Memorandum submitted by the Retail Motor Industry (E1)**

The retail motor industry is one of the largest industrial sectors in the UK with 600,000 people employed in 20,000 motor retail businesses. There are approximately 28 million cars in the UK. In 2002 there were 2.5 million new car sales and 7.1 million used car sales.

In 2002, 340,000 cars were illegally abandoned (dumped) and a high proportion of these vehicles were subsequently torched.

I would like to draw to the attention of the Committee a number of outstanding issues concerning the End of Life Vehicles Directive.

First, while the EU Directive was due to be transposed into national law on 21 April 2002, and although a number of consultation papers have been published by the Department of Trade and Industry, and Parliament has passed a Statutory Instrument, there are still no detailed plans published by the Department of Trade and Industry for its implementation.

The newly published regulations give the responsibility to the vehicle manufacturers and importers for implementing a free “take back” policy in respect of new vehicles first put on the market on or after 1 July 2002, yet the practical aspects of this scheme are still in the planning stage.

Detailed planning, including liability, still has to be carried out to determine how the manufacturers and importers will provide free “take back” from 2007 of the existing car parc—that is, a vehicle registered prior to July 2002. A large number of vehicles also enter the UK outside the normal manufacturer supply chain and these cars are known as “grey imports”. Again, accountability for these vehicles needs to be established.

The minimum cost of disposal for a vehicle is likely to be around £50–£60, and could be substantially more in some parts of the country. The RMI is concerned that the volume of abandoned vehicles could escalate significantly over the three years between now and 2007, when the greatly increased disposal costs will be incurred by the last keeper, as opposed to the manufacturer. Unless the vehicle has a residual value, there will be no incentive for the final owner of the vehicle to dispose of it in a responsible manner.

We recognise that continuous registration, which becomes effective from early in 2004, will impose severe penalties on people who fail to correctly dispose of their vehicle. However, Committee members will also appreciate that establishing ownership of vehicles in the final stages of life is often fraught with difficulty.

The RMI, as a leading trade association in the retail motor industry, has an unrivalled knowledge in this field, and we would be delighted to give further evidence at your oral sessions should you wish us to do so.

*Matthew Carrington*  
RMI Chief Executive

*21 October 2003*

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## **Memorandum submitted by BACTA (E2)**

We refer to the announcement on 18 September from your office and attach BACTA’s written evidence in relation to the Consultation Paper regarding the WEEE Directive.

We attach our detailed comments in relation to the draft Directive, making reference to specific Articles where appropriate.

Our primary observations are as follows:

We request removal of the burden of responsibility for all historical waste.

We request removal of the burden on Overseas sales.

We request clarification regarding the following:

1. It is anticipated that the historic burden of responsibility will apply throughout member EEC countries. Please clarify how this will apply should additional members join the EEC? Will a WEEE analysis form part of the requirement for joining the EEC and will prior payment of an initial sum to cover WEEE become a prerequisite to entry?
2. There may well be anomalies where original equipment bearing the producers badge has been exported by third parties following what could be termed to be “normal” life use in the country of origin. Whilst it appears clear that a use of the equipment to form the foundation for a new

secondary product will be covered as the equipment will be re-badged and therefore become the responsibility of the covering company, it would be useful to identify any proposed time limitations on responsibilities.

3. Is it intended that responsibilities for product placed into the market prior to 13 August 2005 be time related?
4. How will the responsibilities for companies who place either new or re-badged equipment into the market and subsequently go into liquidation to be handled?

We need to ensure that the methods employed for implementation, together with the regulatory regime of compliance do not present an unnecessary burden for the British Amusements Industry.

In addition we comment:

1. There are no current facilities accessible by producers to effectively handle the disposal and recycling of materials used in the production of equipment from UK manufacturers. There needs to be more Government involvement in the provision of suitable facilities and technologies to allow for the efficient and effective disposal/recycling procedures to take place.
2. There is a lack of Government guidance available to assist producers in the identification of routing for the recovery and disposal process and this guidance needs to be made available as soon as possible.
3. We require clarity on the sharing of burden through the supply chain.
4. We require clarity regarding methods of handling the responsibility issues in the future. For example, is the producer responsibility for those items which are not returned? What, if any, is the penalty for an end user “disposing” of the product by whatever means they see fit? Is it anticipated that responsibility can be passed through Contracted Sales Agreements?

Will account be had of current recycling practices?

We will be seeking assurances that appropriate Government incentives (both financial and through provision of support facilities) will be introduced to allow changes in both process and design for the future.

#### BACTA RESPONSE TO WEEE CONSULTATION

We make the following comments:

##### *Article 2—Scope*

The criteria is sufficient to meet the requirements of the Directive.

We agree with determining the scope through non-statutory guidance.

We would anticipate problems with any products that are effectively integrated into a structure or substance. There is an increasing technological trend to distribute electronic devices—eg trainers that light up when you walk, clothing with sensors/activators embedded in the fabric, buildings with sensors/actuators embedded in structural materials. Dismantling of these products to retrieve the devices would be prohibitive. The Government should exclude from the scope, devices which are “substantially embedded within a structure or material”.

##### *Article 3—Definitions*

The definitions provided appear to be clear and comprehensive.

We note that the person who “offers for sale” goods delivered to European consumers could be defined as the producer.

##### *Article 4—Product Design*

The requirements of articles 8 and 9 (Financial Obligations) will ensure that it is in the producers’ own interests to produce an environmentally friendly product. A very “light touch” is all that is therefore required. Voluntary agreements are an adequate control.

Industry standards, such as ISO 14000, whilst desirable require a significant investment in time, effort and money. Whilst the adoption of such standards should be encouraged they should not be mandated.

Most EEE consists of generic components utilised across all industries. Generic guidelines will therefore be adequate.

Self-certification via a declaration of compliance should be required to effect compliance. Enforcement authorities should check compliance if they identify equipment that is non-compliant.

Design features or specific processes that prevent re-use, should be covered as part of voluntary guidelines.

#### *Article 5—Separate Collection*

Take back obligations should be met by “reversing” the supply chain. As new products are delivered, waste products should be picked up and returned to the producer or their authorised representative via the same supply chain that delivers new products.

Collection obligations should be placed on the full supply chain. Producers have developed sophisticated multi-layered systems for distributing and retailing products. These same systems should be used to collect WEED. As the supply chain is unlikely to be enthusiastic about this activity a legal obligation should be placed upon them.

We prefer the option of retailer/distributor collection on the delivery of new equipment. Coin-op leisure equipment is large and unwieldy and therefore best handled by those with the necessary skills, equipment and training. Retailers/distributors meet this requirement, as it is necessary for delivery of equipment. UK coin-op machine injection is estimated at 100,000 units/year. At an estimated average cost of £35 per unit collection. (£15 transport to distributor/retailer and £20 transport to end user). This equates to an annual cost of £3.5 million.

Re-use is best encouraged by ensuring the collection process recovers machines in a fit and proper state and delivers them to the relevant producer for re-use. The collection system outlined above will ensure this happens.

#### *Article 6—Treatment*

The Coin op industry is not directly involved in waste management at this level at present and plans to rely on third parties to provide these facilities in future. We therefore have no comments on the specific questions raised. As treatment facilities are will be common across virtually all industry sectors we advocate that the UK government takes a lead role in establishing companies that can provide this service to industry. UK government should also provide information to industry (via a web site) regarding which providers exist in the market.

#### *Article 7—Recovery*

The protocols based approach is reasonable and will establish overall performance by category. It will however prove difficult to hold individual producers accountable by this system, on balance the benefits of protocols outweigh the significant costs that would be incurred by direct counting.

As the directive’s targets and measurement system is weight-based, component reuse measurement should logically be weight based. However this highlights a significant issue with the Directive in that whilst significant re-use of components may be carried out it may not contribute a significant percentage of the weight. In the coin op industry typically only 10% of the weight is in the electrical and electronic components and circuitry the rest is in the enclosure. Complete re-use of all EEE within the machine results in a negligible contribution to the targets. We see this as a fundamental flaw in the Directive and cannot propose any solution.

Re-use will invariably arise following refurbishment. Re-use should be measured as the percentage of original material re-used (by weight).

#### *Article 9—Financing in Respect of WEEE from Users Other than Private Households*

The Industry has a first class record for recycling and providing extended life for product through rebuilding and conversion processes. Its electronic components have and are being recycled as an ongoing part of the industries established working methods, and we believe this should be taken into consideration in the determination of both historical responsibility, and in the future treatment of waste and recycling definitions.

The amendment to Article 9 is a step in the right direction. However the producer making the new sale may not be the producer of the equipment being replaced. The amendment therefore moves liability from the original producer and is not consistent with the “polluter pays” principle at the heart of the Directive. It does at least however provide a mechanism whereby producers can factor waste treatment costs into their product pricing.

The problem of historical waste disposal is a major issue. We submit that this burden must be removed. The Directive’s requirements place a significant burden on Industry that will result in significant price increases. To add to this liability for historical waste which the producer has no way of mitigating is blatantly unreasonable, particularly given that the producers currently trading may not even have generated the historical waste. In the case of coin op machinery products of 10 years and older are not uncommon. Over the recent past between 85,000 and 100,000 machines per annum have been produced for the UK and export markets. There are likely to be, at the time of the proposed start date for this Directive some 500,000 machines throughout Europe that potentially fall into the category of “historical waste”. The potential liability for the disposal of 500,000 machines is huge and will result in a direct negative impact to the viability

of UK producers. This impact could result in a reduction to the number of producers adding still further financial burdens to the industry. The responsibility for the disposal of historical waste must not be placed on the shoulders of producers.

All of the equipment currently in the market place was sold without consideration of recycling or waste disposal responsibilities. In many cases, particularly in Europe, it was sold at a very small margin, to expand the British Manufacturing influence and create viability for the manufacturing plants throughout the UK. Any cost burden on the very large numbers of machines sold would have a direct and negative effect on the profitability and consequently the viability of many of the UK producers. This in turn would lead to added cost burden as the responsibility would then be spread between surviving companies. Export sales would be put under severe pressure as manufacturers would not be in a position to effectively manage the process of disposal and would have little control over the cost base incurred for local processing.

It is unreasonable to place disposal costs on producers and suppliers who have no ability to reflect this cost in product pricing. It is therefore difficult to see who could finance it other than the final business user.

#### *Article 10—Information for Users*

We submit that Government should establish facilities directly and indirectly for distribution of information. Manufacturers information on the method of waste collection should be included in instruction books and point of sale documents. Manufacturers are in the best position to know the collection mechanism that they are providing to meet their obligations under the Directive.

Fining of offenders and the authority to force the withdrawal of products might be appropriate (in extreme cases).

Collective information seems unnecessary when product specific information can be supplied so readily via manuals.

#### *Article 11—Information for Treatment Facilities*

We favour option 1. The vast majority of producers will have their own web site to publish the necessary information. A producer is defined as the person selling under a brand so the producer should be readily identifiable. SMEs without a web presence can easily establish one by renting web space from an ISP. Product labelling could include a reference to the relevant Web URL.

Option 2 does not offer any significant advantage over option 1 and incurs unnecessary bureaucracy.

Option 3 is unnecessarily complex.

Option 4 incurs an unnecessary administrative burden.

The single web site should have no more than a link to the producers own web site where the information resides, as such its costs should be negligible. It should be operated and funded by the government body responsible for the registration process. A web address provided at registration should hyperlink through to producers web sites where up to date product information can readily be updated and maintained by the producer without feeding information to a third party web site. SME's who do not want to have their own web site could pay the government body to host their information on the government site.

#### *Article 12—Information & Reporting*

Annual registration and submission of data should be used. Registrations should apply to all products in the market.

Failure to register should lead to fines and ultimately (in extreme cases) the removal of product from the market place.

Registration and submission of data via a web site would be useful.

Monitoring and verification of reprocessing within the EU should be carried out by the method transacted by the EU member into national legislation. Monitoring and verification of reprocessing outside the EU should be verified by vetting certification provided by the producer. Inspection should be carried out in the event of inadequate/irregular certification.

Clearly the UK producers must not bear the burden for non-European machines in relation to distance selling. We submit that the burden on non-European sales into Europe should be removed by analogy with eg packaging regulations, which pass responsibility to the importer. Clearly local producers must not be disadvantaged and the burden must be fairly distributed across the industry. Producers using distance selling should operate under the same conditions as local producers. If regulation and enforcement selling from overseas is not possible a import tax should be applied to finance the imported products disposal.

### Memorandum submitted by Waste Watch (E4)

#### EXECUTIVE SUMMARY

1. Waste Watch is the UK's leading environmental organisation promoting action on the "3Rs"—waste reduction, reuse and recycling—as a means of achieving more sustainable resource use. Our expertise lies in public awareness-raising through communication, education and information-provision relating to waste and resource issues. We are also increasingly involved in research projects that aim to help in the development of policies at the national, regional and/or local level that lead to more sustainable resource management, and reflecting European Union-level initiatives. Our response falls under the following headings:

- UK approach to EU Directives.
- Producer Responsibility.
- Recycling/Recovery.
- Objectives v Targets.
- Information Provision.

2. UK approach to EU Directives—Waste Watch has provided evidence to the many recent Parliamentary inquiries identifying the UK Government's approach of "compliance at low cost" as one the main driver in its poor performance in waste policy. Taking the example of the Packaging and Packaging Waste Directive (PPWD), a "compliance at low cost" approach results in an inappropriate level of funding for the sectors affected by the resulting legislation, most obviously evident in the exclusion of the funding of household-derived packaging waste within the current UK system. Funding for local authorities for recycling schemes has meant that compliance in relation to the PPWD has been subsidised by the Government, masking the true costs of implementation of the Directive.

3. The UK Government's approach of compliance at low cost also has a second key negative impact. Focus on compliance has resulted in implementation of the letter, rather than the spirit, of each Directive. This, in turn, has led to fragmented, often counter-acting, mechanisms which result in disincentives to better performance or in missing the targets needing to be met. The majority of English local authorities are certain to not meet the statutory recycling targets set by the Government to help meet the Landfill Directive targets; and the UK was one of two Member States to miss the PPWD targets last year (despite being one of only two Member States to have fully implemented the Directive).

4. Producer Responsibility—Using the PPWD as an example again, the UK's implementation design is unique in Europe on a number of levels, not least in having used "shared responsibility" along the packaging supply chain. Were the legal responsibility for implementation focused on one sector of the user chain, it would concentrate minds more closely to the need to meet the targets, without precluding the sharing of the delivery of activities in relation to the targets. The concept of producer responsibility, although still an imperfect science, should be implemented in such a way that the producer with ultimate control over decisions relating to design of the product bears legal responsibility for compliance with the legislation. The sometimes implicit aims of PR-based mechanisms are to encourage the more environmentally-friendly design of products, therefore the closer responsibility lies to design, the more effective the influence upon design decisions.

5. Recycling/Recovery—As with the PPWD, the ELV and WEEE Directives incorporate targets on both recovery and recycling. In the current UK economic and regulatory framework, recovery has been taken to mean incineration. In particular respect of the WEEE Directive, organisations such as the Furniture Reuse Network (FRN) have raised the need for a reuse target to be incorporated into the UK's legislation implementing the Directive. As stated earlier, a change of approach by the Government to implement the spirit and not the letter of the Directive, would be served by clear and explicit guidance on what is considered recovery (preferably reuse, refurbishment and repair). Clarification of the Government's views on these, and their communication via guidance in advance of the transfer into UK law is a necessity. Notwithstanding clarification of activities deemed "recovery", the Government should start to prioritise activities further up the waste hierarchy. In particular reference to the WEEE Directive, these products are often ideal for refurbishment and repair for provision of these items to low income individuals or families.

6. Objectives v Targets—As already stated earlier in this response, the Government's compliance at low cost approach and its focus on the letter rather than the spirit of Directives have resulted in policies which support poor performance in resource/waste management. The Government should learn from the resulting practices of the design of the packaging regulations—that is, the "cherry picking" of materials from easier to collect industrial sites thereby ignoring the more publicly obvious household sources. The tonnage-based compliance approach taken with the packaging regulations has not been realistic in anticipating the subsequent activities of compliance schemes and reprocessors in meeting the letter of the Directive as it has been translated into law, rather than the objective, or the spirit, of the Directive—that of increasing packaging recycling and reducing the level of packaging put on the market.

7. Information Provision—As with the PPWD, there is a requirement for obligated companies to communicate to the public on the environmental impacts of packaging—the Consumer Information Obligation (CIO)—both the WEEE and ELV Directives have similar clauses. To date, the UK Government



has not clarified what amount of money is required per tonne to meet the CIO, leaving companies unclear as to how to meet it. Engaging with the public is necessary if they are to become aware enough of environmental issues to change their behaviour, and participate in take-back schemes or other such schemes at the end of a product's life.

#### INTRODUCTION

8. Waste Watch is the UK's leading environmental organisation promoting action on the "3Rs"—waste reduction, reuse and recycling—as a means of achieving more sustainable resource use. Waste Watch has over 400 members from a wide cross-section of local authorities, the community and social economy sector, business, other agencies and individuals. We are supported nationally by funding from the Department of the Environment, Food and Rural Affairs' Environmental Action Fund, together with project funding from a number of waste management companies through the legacy fund of the Landfill Tax Credits Scheme, a range of corporate supporters and our membership.

9. Waste Watch's expertise lies in public awareness-raising through communication, education and information-provision relating to waste and resource issues. We are also increasingly involved in research projects that aim to help in the development of policies at the national, regional and/or local level that lead to more sustainable resource management, and reflecting European Union-level initiatives. Our response focuses on the broader elements of implementation of the Directives so that their objectives are at least met. These will fall under the following headings:

- UK approach to EU Directives.
- Producer Responsibility.
- Recycling/Recovery.
- Objectives v Targets.
- Information Provision.

#### UK APPROACH TO EU DIRECTIVES

10. The many recent Parliamentary inquiries in the area of UK waste management policy has provided Waste Watch with the opportunity to communicate its view that the UK Government's approach of "compliance at low cost" has resulted in poor performance in this policy area. Drawing heavily upon the experience of the implementation of, and subsequent performance in meeting the targets of, the Packaging and Packaging Waste Directive (PPWD), it is Waste Watch's view that the Government needs a change in approach in the implementation of the two Directives related to this inquiry. A "compliance at low cost" approach results in an inappropriate level of funding for the sectors affected by the resulting legislation, most obviously evident in the exclusion of the funding of household-derived packaging waste within the current UK system. Only now that higher material-specific targets are being discussed at EU level are compliance schemes turning more systematically to local authorities for support of their recycling schemes. Local authorities have already expressed concern about further costs needing to be borne by them, and their continuing frustration in the delay by Government of allocating appropriate levels of funding to support such recycling schemes. Funding for local authorities for recycling schemes has meant that compliance in relation to the PPWD has been subsidised by the Government, masking the true costs of implementation of the Directive. Waste Watch therefore recommends the reflection of full collection costs into the resulting compliance structure for each Directive.

11. The UK Government's approach of compliance at low cost also has a second key negative impact. Focus on compliance has resulted in implementation of the letter, rather than the spirit, of each Directive. This, in turn, has led to fragmented, often counter-acting, mechanisms which result in disincentives to better performance or in missing the targets needing to be met. A major step-change in the UK approach to EU environmental legislation will be supported by a better understanding of sustainable development and a more even approach to its three tenets—social, economic and environmental. The over-riding low-cost approach has prioritised this tenet over the other two, to their detriment, while also resulting in the UK not meeting targets. The majority of English local authorities are certain to not meet the statutory recycling targets set by the Government to help meet the Landfill Directive targets; and the UK was one of two Member States to miss the PPWD targets last year (despite being one of only two Member States to have fully implemented the Directive). Waste Watch therefore recommends that the Government implement the Directives within the wider context of sustainable development rather than solely against specific targets.

#### PRODUCER RESPONSIBILITY (PR)

12. Again, using the example of the UK Government's implementation of the PPWD, it is our view that the Government should learn from its experience here to improve design of implementation. Although the PPWD was not a producer responsibility-based Directive, most Member States have used PR in the design of their implementation legislation. The UK's implementation design is unique in Europe on a number of levels, not least in having used "shared responsibility" along the packaging supply chain. As the legislation

currently stands, responsibility is shared by manufacturers (6%), converters (9%), packer/fillers (37%) and retailers (48%). Were the legal responsibility for implementation focused on one of these, it would concentrate minds more closely to the need to meet the targets, without precluding the sharing of the delivery of activities in relation to the targets. The concept of producer responsibility, although still an imperfect science, should be implemented in such a way that the producer with ultimate control over decisions relating to design of the product bears legal responsibility for compliance with the legislation. The sometimes implicit aims of PR-based mechanisms are to encourage the more environmentally-friendly design of products, therefore the closer responsibility lies to design, the more effective the influence upon design decisions. Waste Watch therefore recommends that full legal responsibility for compliance be given only to the producers of the Directive products.

#### RECYCLING/RECOVERY

13. As with the PPWD, the ELV and WEEE Directives incorporate targets on both recovery and recycling. In the current UK economic and regulatory framework, recovery has been taken to mean incineration. The recent ruling by the European Court of Justice on when incineration is recovery and when it is disposal is testament to the fact that other Member States are also interpreting recovery as incineration. In particular respect of the WEEE Directive, organisations such as the Furniture Reuse Network (FRN) have raised the need for a reuse target to be incorporated into the UK's legislation implementing the Directive. As stated in Paragraph 11 of this response, a change of approach by the Government to implement the spirit and not the letter of the Directive, would be served by clear and explicit guidance on what is considered recovery (preferably reuse, refurbishment and repair). Clarification of the Government's views on these, and their communication via guidance in advance of the transfer into UK law is a necessity. As identified in the Better Regulation Task Force document on the two Directives, this is one of the major failings in UK implementation of Directives thus far.

14. Notwithstanding clarification of activities deemed "recovery", the Government should start to prioritise activities further up the waste hierarchy. In particular reference to the WEEE Directive, these products are often ideal for refurbishment and repair for provision of these items to low income individuals or families. The FRN has prepared protocols supporting the Directive, in particular on reuse of whole products and component parts. The Association of Cities and Regions for Recycling (ACRR) have also produced a report detailing how other Member States have implemented WEEE to date, including their legislation. Therefore the Government can draw upon existing expertise and experience in developing further details of the implementation mechanism.

#### OBJECTIVES V TARGETS

15. As already stated earlier in this response, the Government's compliance at low cost and approach and its focus on the letter rather than the spirit of Directives have resulted in policies which support poor performance in resource/waste management. The design of implementation of these Directives offers an ideal opportunity to correct these. The over-riding objectives of WEEE Directive are:

- To reduce waste arisings from EEE.
- To improve and maximise recycling, reuse and other forms of recovery of wastes from EEE.
- To minimise the impact on the environment of their treatment and disposal.

The ELV Directive's objectives are similar:

- To prevent waste from vehicles, and at the reuse, recycling and recovery of ELVs so as to reduce the disposal of waste.

16. The Government should learn from the resulting practices of the design of the packaging regulations—that is, the "cherry picking" of materials from easier to collect industrial sites thereby ignoring the more publicly obvious household sources. The tonnage-based compliance approach taken with the packaging regulations has not been realistic in anticipating the subsequent activities of compliance schemes and reprocessors in meeting the letter of the Directive as it has been translated into law, rather than the objective, or the spirit, of the Directive—that of increasing packaging recycling and reducing the level of packaging put on the market.

17. It is worth noting that the UK is already meeting the WEEE Directive's target of collecting 4 kg per head, therefore little change in behaviour is needed. This is not to be encouraged by allowing the continuation of the compliance at low cost approach. The Government has stated that obligated companies will need to pay for the collection of products beyond the 4 kg per head target, which is to be welcomed. However, we recommend that the Government set clearer objectives for reuse and refurbishment so that companies better understand the Government's intentions on supporting the objectives of not only the WEEE Directive, but also the one pertaining to ELVs.

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#### INFORMATION PROVISION

18. As with the PPWD, there is a requirement for obligated companies to communicate to the public on the environmental impacts of packaging—the Consumer Information Obligation (CIO)—both the WEEE and ELV Directives have similar clauses. To date, the UK Government has not clarified what amount of money is required per tonne to meet the CIO, leaving companies unclear as to how to meet it. Waste Watch’s Wasteline, the national helpline on waste-related issues, has long been an over-stretched resource, which is an obvious recipient of such funds. Engaging with the public is necessary if they are to become aware enough of environmental issues to change their behaviour, and participate in take-back schemes or other such schemes at the end of a product’s life. We therefore recommend that the Government clarify the Consumer Information Obligation in the WEEE and ELV regulations so as to provide national communication.

*October 2003*

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#### **Memorandum submitted by the Manchester Chamber of Commerce and Industry (E6)**

1. Manchester Chamber welcomes the opportunity to submit evidence to the Environment, Food and Rural Affairs Committee on the Waste of Electrical and Electronic Equipment (WEEE) Directive. We have worked closely with a small group of electrical and electronic manufacturers and importers in the Manchester area and have had attendance at two meetings by Andrew Lunn of the DTI, to gather views from those businesses.

2. The general feeling from business is that the Directive has the potential to be damaging to business unless there is a light regulatory touch, learning lessons from previous environmental legislation relating to disposal of fridges and packaging. Specific issues relating to the WEEE Directive’s translation into national law are as follows:

#### SCOPE

3. The list of categories of items covered by the Directive should be enhanced through guidelines, not legislation. This would be easier to implement and to amend as changes in technology occur.

4. Clarity is needed over the items which fall within the remit of the Directive, particularly where items are for industrial purposes. It was felt that a classification based on weight or size could be workable.

5. Although consumables do not normally form part of the WEEE responsibility, at the end of a product’s life any consumables will form part of the waste eg a toner cartridge in a printer.

6. It needs to be made clear how the above can be reflected in the information supplied to the Environment Agency for enforcement purposes if recovery targets are by weight.

7. There is some concern over the inclusion of second hand goods in the WEEE Directive in relation to the producer responsibility. When a product has been sold on by the original purchaser, and then modified, it should not be the responsibility of the original manufacturer to recover and recycle the product although it may be difficult to track anyone else to be responsible.

#### DEFINITIONS

8. The definitions are clear regarding producers however some clarity is needed on how goods sold direct over the internet from outside the EU will be accounted for.

#### PRODUCT DESIGN

9. It was felt that a voluntary scheme on product design would be a preferable option for implementing the recovery of WEEE rather than developing an industry standard.

10. There was great reluctance to expanding EMAS or ISO14001 to include the new obligations. Some manufacturers are already examining their product designs to allow compliance with the WEEE directive, including the new sticker and date coding. There were concerns over the impact the ROHS Directive would have in relation to the difference in specifications for the EU and USA market, particularly on flame retardant properties.

11. There were concerns that providing the literature to allow for the re-use and recycling of products would devolve the intellectual property of the manufacturer. There was a suggestion that this information only needed to be made available through the recovery contract.

#### COLLECTION AND RECOVERY

12. Collection is seen as a difficult area in the implementation of the Directive as this could prove the most costly to establish.

13. There needs to be a package of measures introduced which includes take-back schemes by retailers, the exchange of old equipment when new is delivered for retail and business-to-business deals, improved kerbside collections and expanded civic amenity sites where wholesalers and installers can deposit commercial waste.

14. Retailers have already started asking manufacturers to contribute to the take-back schemes, potentially leading to products not being stocked where no funds are forthcoming. Currently there only a few companies who will recover WEEE and it is unclear what outlets there will be available for recycled WEEE without some priming of the market, perhaps by the Government.

15. It is essential that any new recovery schemes do not disrupt the mechanisms and markets already established for recycling of consumables.

16. Manufacturers are keen to see a light regulatory touch in relation to the different options for recovery: joining a scheme; letting a contract or carrying out the process in-house.

17. There are lessons to be learned from other waste directives but members did not express a preference for a particular process.

#### FINANCING

18. There are concerns over the cost of the requirements of the WEEE Directive. For some manufacturers there will be three different costs arising: insurance to cover the costs of historic waste, a contribution to the retailer take back schemes and the recovery/reuse of separated waste.

19. A preference was expressed for paying for separated waste based on market share when it had been collected, rather than an upfront payment, although money will be accrued in advance. This was felt to be a better option as not all products produced will be returned through a separated waste stream. Companies expressed concerns over demonstrating costs of disposal to customers as this could lead to problems with competitiveness.

20. It was felt that the Government needed to educate the insurance industry about the implications of the WEEE Directive. Where companies have had preliminary discussions with insurers, they have resulted in extremely high premiums being quoted as insurers are unable to calculate the risk involved regarding the quantity of WEEE collected.

#### INFORMATION

21. The issue over intellectual property rights when producing information for the recovery and reuse of WEEE needs to be addressed. Obviously health and safety regulations are paramount but there must be some protection of product design allowed. Information on request was felt to be the simplest process.

22. With regard to the information required for enforcement purposes, there was a call for this to be straightforward and easily accessible. Companies were comfortable with collating information on production levels, the destination of products (ie domestic, EU or outside EU), import levels, number of items returned, and the level of reuse/recycling on a regular basis to report to the Environment Agency. Reporting figures via the Agency's website was seen as a fairly positive option, as long as it was a simple process.

#### CONCLUSION

23. The WEEE Directive is very complex and the legislation it will produce could potentially be very damaging to the manufacturers and importers of electrical equipment. We feel that the timescales set by the European Commission are too stringent for the sector and the waste industry to implement the full extent of the Directive, and fear that it could lead to problems such as those experienced with the change in legislation relating to fridges. It is also important to safeguard companies and industries which are already operating in the electrical waste area. Manchester Chamber appreciates the commitment shown by the DTI in consulting with business by their attendance at meetings with our members and guidance through the initial discussion document consultation process.

*October 2003*

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**Memorandum submitted by the Local Authority Recycling Advisory Committee (LARAC) (E7)**

Thank you for the opportunity to submit evidence to the Committee with regard to the issue of Waste Electrical & Electronic Equipment (WEEE). The comments below come on behalf of the Local Authority Recycling Advisory Committee (LARAC). LARAC is an association of 400 local authority professionals who co-ordinate and operate waste management services for their respective authorities. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary Authorities from within England, Scotland, Wales and Northern Ireland.

With regard to WEEE, LARAC took the opportunity in July 2003 to respond to the DTI consultation on the EU Directives. We were pleased to see that the DTI's Mark Downs was able to attend our annual conference earlier this month to run a workshop, discussing the key issues raised in managing this waste stream.

LARAC's principal concern is that the Producer Responsibility element of the Directive is recognised in implementing legislation and guidance for the UK management of WEEE. LARAC recognises that Local Authorities have infrastructure which could be used in the collection of WEEE for recycling. If local authorities are to be encouraged to play a role in the recovery of WEEE however, it will be essential that any additional burdens related to this role are recognised and funded by the Producers.

LARAC's members do have some potentially suitable infrastructure for WEEE collection—both through "Civic Amenity" sites and kerbside collection systems. Not every site or collection would be suitable to accept WEEE however, so LARAC would encourage the policy-makers to enter into dialogue with LARAC and its Members if WEEE is to be collected through these means.

With regard to the quantities of WEEE to be recycled, LARAC would encourage the Committee to recognise the spirit of the Directive in aiming to encourage more WEEE recovery, rather than sticking rigidly to the 4 kg per household figure quoted in the Directive. This target will no doubt increase with time, and diverting the maximum quantity of material away from disposal is clearly in line with other UK waste policy and the requirements of the EU Landfill Directive. It will also have a potential relationship with statutory recycling targets that Government has set for Local Authorities.

The way in which WEEE is to be segregated for onward processing will have massive implications with regard to the ability of local authorities to play a role in its recovery, in particular with regard to the on-site space requirements for segregated WEEE and the costs of its segregation and storage. LARAC will look forward to being involved in discussions with other stakeholders as to the format in which WEEE is presented and will be keen to discuss details with the Committee.

In summary, the management and recovery of WEEE is an issue which could have a major impact on UK local authorities, the vast majority of whom are LARAC members. LARAC is grateful for the opportunity to raise issues with regard to how the UK implements systems for the recovery of WEEE and would welcome the opportunity to provide further evidence to the Committee in this regard.

*October 2003*

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**Memorandum submitted by the Institution of Civil Engineers (E10)**

The Institution of Civil Engineers (ICE) is a UK-based international organisation with over 75,000 members ranging from professional civil engineers to students. It is an educational and qualifying body and has charitable status under UK law. Founded in 1818, the ICE has become recognised worldwide for its excellence as a centre of learning, as a qualifying body and as a public voice for the profession.

ICE urges the appointment of an independent Chief Engineering Adviser to ensure a co-ordinated, long-term, sustainable approach to infrastructure planning such as transport, rather than decision-making being dominated by political short-termism. ICE believes that the position should be similar in remit to the Government's Chief Medical Officer or Chief Scientific Adviser.

*1. Issues on which ICE would like to submit comments*

- (i) The role of the construction sector in implementation of the directive.
- (ii) The case for a national statement on the number, type and location of facilities required to enable the UK to meet the terms of the WEEE, ELV and other waste management related Directives.
- (iii) Placing implementation of the Directives in the context of delivering a holistic approach to waste and resource management.
- (iv) Certainty and investment.
- (v) The problem of Hazardous Waste.

## 2. Summary of ICE recommendations

- (i) That the Committee examine if the construction industry currently has the capacity to deliver the facilities required to fulfil the UK obligations under the ELV, WEEE and other waste management related directives.
- (ii) That the Committee press DEFRA to issue a statement on the number, type and broad geographical distribution of facilities required.
- (iii) That the Committee examine how the implementation of the Directives contributes to a holistic approach to waste and resource management, supporting a secondary materials economy.
- (iv) That DEFRA be pressed to produce an unambiguous timetable for the production of all guidance and regulation required to implement the 2 Directives.
- (v) That the Committee consider the impact of the banning from July 2004 of co-disposal of hazardous and non hazardous waste to landfill on the UK's ability to implement the Directive.

## 3. The role of the construction sector in implementation of the directive

3.1 The Better Regulation Task Forces' report, *Environmental Regulation—Getting the Message Across* lists three main stakeholder groups affected by the Directives:

- (i) Producers.
- (ii) Retailers.
- (iii) The Waste Treatment Infrastructure, defined as Local Authorities and the Waste Treatment Industry.

3.2 We are concerned that the role of the construction sector in building the new facilities required to enable other stakeholders to fulfil their obligations under the Directives has not been recognised. We fear that this reflects a general blindness to the role of the construction sector in implementing waste management legislation.

3.3 The facilities and the supporting infrastructure required will include civil, mechanical and electrical engineering in addition to buildings. We would urge government to establish if the I construction industry currently has the capacity to deliver the necessary facilities in the required timescale. This study should also take into account the likely demand for facilities to handle municipal waste diverted from Landfill to meet the terms of the EU Landfill Directive<sup>3</sup>. The Committee should recognise that highly skilled professionals will be required to deliver new facilities and that serious skill shortages with the subsequent impact on inflation and programme delivery are a real possibility.

## 4. A national statement on the number, type and location of facilities required

4.1 The Institution would welcome a statement from government on its view of the number, type and broad regional distribution of facilities required. Such a statement would provide the construction and waste management industries with information required to plan investment and would also allow industry and Local Authorities to be able to tackle the land use planning issues that have bedevilled the implementation of the Landfill Directive.

4.2 Placing the implementation of the directives in the context of delivering a holistic approach to waste and resource management.

4.3 We are concerned that DEFRA and its predecessor departments have consistently adopted a piecemeal approach to waste and resource management. As an example Waste Strategy 2000 focuses almost entirely on biodegradable municipal waste and meeting the UK's Landfill Directive targets. While the Government's literature on the ELV and WEEE Directives does cross reference to other areas of waste policy we are not convinced that a consistent approach is being taken. At present waste management policy is driven by the source of materials, with policy measures taken to address specific waste streams (municipal, commercial, industrial, WEEE, construction and demolition etc). While we recognise this reflects the legislative framework it creates a barrier to creating integrated collection, treatment, reprocessing and disposal systems for waste materials. We believe that this system is inefficient and is not conducive to increasing recycling and recovery or creating a strong secondary materials economy. Ideally the legislative and fiscal framework should aim to create a market situation where treatment option is driven by the nature of the material and its capacity for reuse. We believe such a system would greatly reduce arguments over the most suitable treatment for particular materials and also improve the waste management industry's ability to provide a reliable and consistent source of recovered and reprocessed "raw materials" to the manufacturing sector.

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<sup>3</sup> The Landfill Directive sets targets for the reduction of biodegradable waste sent to landfill as 75% of the 1995 level by 2010, 50% of the 1995 level by 2013 and 35% of the 1995 level by 2020. It is estimated that the target allows the landfilling of 11.2 million tonnes of biodegradable municipal waste in 2010 compared with the 17.9 million that the UK is currently projected to produce in that year. This equates to a demand for 6.7 million tonnes of processing capacity.

### 5. *Certainty and Investment*

Construction of new facilities will require significant investment from clients in the waste management industry. However as the Better Regulation Taskforce have identified there remain significant barriers to creating the climate of certainty required to stimulate investment including delays in setting standards for waste treatment infrastructure. In this context DEFRA does not have a good record of timely production of the necessary guidance. The “fridge mountain” created during 2002, arising in part from late production of guidance relating to the Ozone Depleting Substances Regulation is the most infamous example of what is a common trend in many areas of waste policy. A second example, noted by ICE in its 2003 *State of the Nation* report into UK infrastructure were the delays in issuing guidance relating to the Animal By Products order, which served to undermine investment in composting, a key plank in the Government’s over arching waste management policy. We would therefore urge the Committee to press DEFRA for an unambiguous timetable for the production of the necessary guidance. The Committee should then satisfy itself that this timetable will provide adequate time to secure the investment and planning consents required to meet the terms of the directive and to construct the necessary facilities. The Committee should also ensure DEFRA has adequate plans to communicate this information to key stakeholders.

### 6. *The Problem of Hazardous Waste*

A ban on co-disposal of non hazardous and hazardous waste to the same landfill site is due to come into force in July 2004. The Environment Agency have recently reported to the Welsh Assembly that this will result in a reduction in the number of commercially available hazardous waste landfill sites in England and Wales reducing from 182 to 10 creating a shortfall in capacity of 2 million tonnes. This situation also raises serious concerns in relation to storage, transportation and eventual treatment of very large quantities of hazardous material. The committee must ensure that DEFRA has taken this factor into account in planning for the implementation of the Directives.

24 October 2003

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## **Memorandum submitted by S Norton and Co. Ltd (E13)**

### INTRODUCTION

1. The following evidence is submitted by S Norton and Co. Ltd., a medium sized company, which is third largest metal recycling operation in the UK. Established over 40 years ago, Norton operates from five sites in Liverpool and Manchester, processing and shipping around one million tonnes of recovered metals annually.

2. Norton is a prominent member of the British Metals Recycling Association (BMRA), the trade body for the metal recycling industry, and supports a number of its key committees. The Company works closely with the Association on important issues such as the End of Life Vehicles (ELV) and Waste Electrical and Electronic Equipment (WEEE) Directives.

3. Norton is also a member of ICER, the Industry Council for Electronic Equipment Recycling, which it joined specifically in order to keep abreast of developments in the WEEE Directive.

4. Two of our sites house large metal shredders and their supporting infrastructure, and process a large number of End of Life Vehicles and Electrical Whitegoods, solely for the purpose of recovering their metallic content for recycling.

5. The UK’s interpretation and implementation of both the ELV and WEEE Directives are therefore of vital importance to our ongoing operations, and we welcome the opportunity to comment on the Government’s role in transposing and introducing them.

### COMMENTS

6. We have contributed to and generally agree with the evidence submitted to the Committee by the BMRA, and there is very little we can add to it.

7. We feel that DEFRA’s declared intention to avoid over-specifying the technical requirements has been a key factor in delaying the issue of guidance, which has resulted in uncertainty for operators wishing to invest in facilities, while the eventual outcome offers little comfort.

8. The greatest difficulty for recyclers has been the uncertainty over funding, both for treatment costs and increased recovery targets. The DTI’s failure to acknowledge the need and provide for a substantial injection of new funds to meet the increased costs of the Directive has set the producers against the recyclers, each equally determined that the other should bear the cost.

9. As a result, even at this late stage of the Directive, our suppliers who process vehicles in the first instance lack the confidence to invest in facilities as they cannot put together a sensible business plan to justify the investment. There is therefore a strong possibility that treatment capacity will be inadequate and the delivery of properly treated cars to our shredders will be hindered which, in turn, will impair our ability to process and recover the significant metal content.

10. The fact that Producer Responsibility for funding in the WEEE Directive is spelled out more clearly than the ELV Directive illustrates the shortcomings of the latter, and shows that the European legislators are willing to learn from their mistakes.

11. We need the UK Government to apply similar principles to both Directives, and carry the sound Producer Responsibility funding mechanism of the WEEE Directive back to the ELV Directive before it is too late and there is no infrastructure to deliver it.

12. We hope the Committee will use its influence to secure a change in Government policy and facilitate an adequately funded system to ensure the delivery of properly depolluted vehicles, which will help the ultimate achievement of the recovery targets stipulated by the Directives.

24 October 2003

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### **Memorandum submitted by the Motor Vehicle Dismantlers' Association (MVDA) (E14)**

#### **PREPARATIONS FOR THE END OF LIFE VEHICLE DIRECTIVE**

##### **EXECUTIVE SUMMARY**

1. Despite the long build up to the ratification of the End of Life Vehicle Directive by the European Parliament and the subsequent three years of formal discussions with industry its ultimate implementation into UK law has been severely pressured by time constraints.

2. The lack of departmental resources and until the latter stages of discussion the absence of clear executive leadership have been a concern for the various industry parties involved throughout the discussion and consultation process. It was often the industry opinion that this important issue was not being given the resources its complexity warranted.

3. This lack of resources and consequent delay to decision making has resulted in the hurried introduction of a set of regulations that are guided almost exclusively by the vehicle producer's desire to contain their costs. Little heed has been paid to the important practical issues that have been identified by the metals recycling industry.

4. Unfortunately the legislation by its nature will bring significant increases in treatment costs and the producers success means that until 2007 at least, these costs will be borne by the metals recycling industry and or the unfortunate last owner of a vehicle. The prospect of a large increase in the abandonment of end of life vehicles cannot be ignored.

##### **OBSERVATIONS**

5. The split of responsibility between DTI and DEFRA together with the further division between DEFRA and the Environment Agency has meant that decision-making has been a difficult process. This has resulted in the new regulations having to be rushed through to avoid proceedings in the European Court rather than being developed in conjunction with all industry parties.

6. The most difficult issue of this legislation ie the development of a funding mechanism needed to be determined at the outset. At this late stage it is still unresolved. It is immensely disappointing that what was clearly the most cost effective method of both funding the extra treatment costs and of ensuring almost universal compliance was rejected out of hand for political reasons. A deposit type system such as that in use in Denmark was originally proposed by ourselves and was subsequently recommended in the Ernst and Young consultation for the DTI. Such an approach appeared to appeal to all parties with the unfortunate exception of the Treasury.

7. There has been little preparation within the metals recycling industry sector for implementation of the Directive as until now it has not been at all clear what will be required and indeed it is still not clear how operation to the new standards can be funded.

8. The strategy of making last owners responsible until 2007 is dependant on a strong world market for ferrous scrap metal. Should this market fall significantly as it does periodically then it is difficult to see how as the cost of processing starts to outweigh the value of recycled metals a huge abandoned vehicle problem can be avoided.



9. The assumption that the move to continuous licensing of motor vehicles will force all ELV's into the system via Authorised Treatment Facilities is somewhat optimistic. Not only are there several simple ways of avoiding the need to obtain a Certificate of Destruction but as current experience shows the cost of policing this system will be prohibitive. Even where convictions are obtained the enforcement of penalties will not necessarily follow.

10. During the development of the regulations a number of consultants were employed by both DEFRA and DTI to provide advice and research. Little if any use seems to have been made of these projects. This may be because in most cases the projects relied very heavily on interviews with the industry participants who had already freely provide what information they could to the government departments involved.

11. Given the seriously declining used parts market many dismantlers and probably a number of scrap metal dealers will find it difficult to fund or at least justify the funding for the development that the regulations will require. It is generally believed that many will close their businesses significantly reducing the size of the treatment facility network. This will almost certainly lead to a rise in abandoned vehicles as last owners seek to avoid the costs of transporting their end of life vehicles to distant treatment facilities. Those least able to pay are to be required to fund the disposal of a vehicle that will have been enjoyed by any number of more affluent owners throughout its life.

12. At the current time despite the directives firm environmental roots there is no mechanism in place to drive up recycling rates. A significant increase in the rates now being achieved will be necessary if the required targets are to be met. As there are few if any viable markets for non-metallic materials these will have to be created to ensure the targets are achieved.

13. As a result of the coercive approach that has been taken to implementing the Directive it will be essential that sufficient resources are made available for policing. It is clear that both DEFRA and the Environment Agency are understaffed in the relevant areas. Many years of industry experience of site licensing show that only those operators who choose to register are regulated indeed there is no requirement within legislation for the EA to pursue non licensed operators. If this legislation is to achieve its goals then firm and effective policing will be needed. Given that it is accepted by DEFRA and the EA that there are in excess of 800 (about 20% of all known operations) unregulated metals recycling sites in operation today there will clearly need to be a significant increase in resources to ensure compliance.

*John Hesketh*  
President

30 October 2003

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#### **Memorandum submitted by Hewlett-Packard Ltd (E15)**

##### 1. EXECUTIVE SUMMARY

1.1 Hewlett-Packard (HP) welcomes the opportunity to make a submission to this inquiry. Although the Committee's inquiry relates to both the Waste Electronic and Electrical Equipment (WEEE) Directive and the End of Life Vehicles Directive, we only have experience of the former and so the comments in this submission only apply to that Directive.

1.2 As the largest IT company in Europe, HP has a very clear interest in the successful outcome of the WEEE Directive and we have participated in the development of the WEEE Directive at all stages of the European legislative process as well as the on-going implementation in the member states.

1.3 Although the WEEE Directive is concerned with environmental issues, we welcome the fact that DTI have led the UK Government's negotiation and implementation of the Directive. This is because the Directive has very major implications for a large number of industries and at times it has been felt that DEFRA officials were less cognisant of industry viewpoints and positions than their colleagues at the DTI were.

1.4 The WEEE Directive set down a good framework for the introduction of producer responsibility for EEE products, while allowing member states and industry enough flexibility to implement regulations to make them future proof. It is crucial that national regulations developed to implement the Directive are also flexible and future proof and avoid inflexible regulation, such as a mandatory visible fee.

1.5 The original drafts of the WEEE Directive bore a strong resemblance to the End of Life Vehicles Directive. It is worth considering whether the process of developing and negotiating the WEEE Directive may have been quicker and easier had the Commission drafted the WEEE Directive from first principles.

1.6 It is important for all companies affected by the WEEE Directive who operate in more than one EU country, that the translation of the Directive into national regulations are as consistent as possible across the member states. To this end we are pleased that the UK Government has resisted calls from some groups to expand the scope of the Directive when implementing national regulations.

1.7 We welcome the fact that consultation on the implementation of the Directive has been a joint process between the UK Government and the devolved administrations in Scotland, Wales and Northern Ireland. We hope that this will lead to final regulations that are consistent across the whole of the UK.

1.8 Individual producer responsibility must be given time to work. It is important that the significant changes brought about by the WEEE Directive must be given sufficient time to “bed down” into the culture of EEE producers before the next major piece of environmental legislation affecting the industry is implemented.

## 2. INTRODUCTION

2.1 Hewlett-Packard (HP) welcomes the opportunity to make a submission to this inquiry. Although the Committee’s inquiry relates to both the Waste Electronic and Electrical Equipment (WEEE) Directive and the End of Life Vehicles Directive, we only have experience of the former and so the comments in this submission only apply to that Directive.

2.2 As the largest IT company in Europe we have a very clear interest in the successful outcome of the WEEE Directive. Given our position in the market we estimate that across Europe HP will be liable for around 25% of the costs within the Directive’s IT and Telecommunications product category. Nor will our liability be limited to this category, as our current product range includes items that fall into other categories, such as consumer electronics.

2.3 HP participated in the development of the WEEE directive at all stages of the European legislative process and we are largely pleased with the final version of the Directive. We are now contributing to the implementation process in each of the member states where the company operates, including the UK.

## 3. HEWLETT-PACKARD IN THE UK

3.1 Hewlett-Packard has been established in the UK for over 30 years and its UK business is now the largest division of HP outside of North America. HP has corporate functions located in London, Bracknell, Reading, Warrington and Glasgow (amongst others). The UK is also home to HP’s largest R&D establishment outside of the United States, HP Labs in Bristol, which employs over 120 full time researchers. In Scotland, a key part of the company’s European manufacturing operation is located in Erskine, Ayrshire. All together, HP employs around 7,000 people across the UK.

## 4. HEWLETT-PACKARD’S APPROACH TO THE ENVIRONMENT AND RECYCLING

4.1 HP believes that environmentally sustainable development is not an option, but an imperative. In our operations across the globe we work towards a sustainable future by developing programmes that reduce our environmental footprint, as well as those of our customers and partners. HP’s vision is to develop products and solutions, and operate the company in such a way, that it is able to lead global businesses toward a sustainable future.

4.2 HP developed its Design for Environment program over 10 years ago with the goal of reducing the environmental impact of products and services. In addition to meeting safety and regulatory requirements, our objective is to design products that use fewer materials, are more energy efficient, and are easier to recycle, while maximising overall value for our customers. Our Design for Environment Programme involves work with product designers, research and development teams and customers to identify, prioritise, and recommend environmental design innovations.

4.3 Waste electronic equipment is a growing environmental concern all over the world, not just in Europe. HP’s vision is to offer recycling services wherever it sells products worldwide. HP has established strategic partnerships with leading recycling companies around the world and as part of HP’s environmental commitment, we have requirements in place that ensure e-waste received for processing by HP at our facilities is managed responsibly.

4.4 Over a decade ago, HP was a pioneer in developing a convenient and free method for customers to recycle our laser printer supplies. Today, this recycling program has expanded to include inkjet printer supplies, and is now available in each region throughout the world. Tens of millions of HP LaserJet and Inkjet print cartridges have been recycled, and thousands of tons of materials have been diverted from landfills.

## 5. THE UK GOVERNMENT’S APPROACH TO THE WEEE DIRECTIVE

5.1 HP has generally been pleased with the Government’s approach to consultation regarding both the negotiation and implementation of the WEEE Directive. Although the WEEE Directive is concerned with environmental issues, we welcome the fact that DTI have led the UK Government’s negotiation and implementation of the Directive. This is because the Directive has very major implications for a large number of industries and at times it has been felt that DEFRA officials were less cognisant of industry viewpoints and positions than their colleagues at the DTI were.

5.2 Nevertheless, interaction with government officials from both DTI and DEFRA has been extremely helpful throughout the process of negotiation and preparation for implementation. We found that our views, when offered, were listened to and given the attention they merited.

5.3 During the current process of implementing the WEEE Directive into UK law, we have been particularly pleased to see that, so far, the Government have stayed focused on implementing the Directive as passed by the European institutions and have not sought to widen the scope or “gold plate” the regulations. This is important in ensuring that the translation of the Directive into national regulations is as consistent as possible across the member states.

## 6. A FLEXIBLE AND FUTURE PROOF APPROACH

6.1 A key element to the creation of a successful directive is building flexibility and future proofing into the structure of the directive. In this respect the WEEE Directive set down a good framework for the introduction of producer responsibility for EEE products, while allowing member states and industry enough flexibility to implement regulations successfully. However, it is crucial that national regulations developed to implement the Directive are just as flexible and future proof as the Directive itself.

6.2 The importance of flexibility and future proofing is particularly relevant to the WEEE Directive as the whole purpose of making producers responsible for their products at the end of their life is to encourage long-term thinking by producers. A clear example of this would be the issue of a “visible fee” that can be added to the price of products to fund future recycling costs. Although for some producers a mandatory visible fee may be more convenient, HP prefers a flexible approach where a visible fee is only introduced for a product where all the manufacturers in that market agree to the fee.

6.3 HP’s preference is based on two points. Firstly, that the flexible approach allows producers to procure the most cost effective recycling solutions at the time that a product is returned for recycling, rather than estimating at the time of sale what those costs will be in the future. Secondly HP’s assessment of the WEEE Directive is that we will choose to internalise the costs of recycling, thus providing ourselves with the incentive to be innovative in our product design and recycling processes, thereby cutting costs and gaining an advantage over our competitors. We believe that such an approach demonstrates the *raison d’être* of producer responsibility policies.

6.4 Flexibility also affords industry the ability to be adaptable and a provider of solutions. The Clearing House model for the administration of producer’s responsibilities under the WEEE regulations, which has been developed by the industry is an example of such a solution. The model allows for centralised apportionment of responsibility for WEEE on the basis of a producer’s market share and provides local authorities with a one-stop shop to arrange the collection of WEEE from municipal facilities for recycling by manufacturers. This model is currently being implemented in Germany.

## 7. DEVELOPMENT OF THE DIRECTIVE

7.1 A point of concern that we would raise regarding the development of the WEEE Directive is that we have noted a tendency for directives that affect one sector to be used by European Union officials as a template for regulation in other completely different sectors. The two directives being examined by the Committee are a good example of this. The original drafts of the WEEE Directive bore a strong resemblance to the End of Life Vehicles Directive, in terms of how it sought to implement “take back” by retailers and restrictions on the use of certain substances. Clearly the car industry and IT industry are very different in terms of their structure for both production and distribution and so we would question the approach taken by Commission officials. Indeed, we believe it is worth considering whether the process of developing and negotiating the WEEE Directive may have been quicker and easier had the Commission drafted the WEEE Directive from first principles.

7.2 There is some parallel here to the implementation process in the UK. There is some justification for feeling that, when approaching the implementation of the WEEE Directive, government officials relied too much on their previous experience of implementing the Packaging and Packaging Waste Directive. As these two Directives deal with a different set of stakeholders and very different recycling requirements, they require quite different approaches to implementation.

## 8. SCOPE AND CONSISTENCY

8.1 EU Directives, such as the WEEE Directive are, of course, negotiated over a number of years and as a major stakeholder HP has been involved in this process from the beginning. As the shape of the Directive has developed, so too have our business assumptions and our calculations of the impact of the Directive on our business. As a multinational company, we have been able to look at the big picture across the EU and maximise efficiencies in our adherence to the Directive, for example by setting up an alliance with other major EEE producers to handle our recycling across Europe. It is now important, not just for HP, but for all major EEE producers operating in more than one EU country, that the translation of the Directive into national regulations are as consistent as possible across the Union.

8.2 In this respect we are aware that there has been some pressure on the UK Government to expand the scope of the regulations to include consumable items, such as printer cartridges, that are explicitly excluded from the Directive. We are very pleased that ministers and officials have resisted the temptation to “gold plate” the regulations, or expand the scope of the Directive in this way. Clearly, when any piece of legislation is being discussed there are always those who will lobby for additional issues to be included within the scope of that legislation. However, in this case it would clearly be wrong to use what is an end-of-life directive to try to implement policies on eco-design, as some have advocated.

8.3 We welcome the fact that consultation on the implementation of the Directive has been a joint process between the UK Government and the devolved administrations in Scotland, Wales and Northern Ireland. We hope that this will lead to final regulations that are consistent across the whole of the UK.

## 9. EFFECTIVE IMPLEMENTATION OF DIRECTIVES

9.1 As stated above, we believe that the *raison d'être* of producer responsibility policies is to encourage companies to think about their impact on the environment and seek to minimise their impact. However, just as it can take a number of years to bring a Directive into force, it can take a number of years for the impact of the regulations to be clearly seen.

9.2 The WEEE Directive, if implemented in the right way, will bring about a new regime of individual producer responsibility in the IT and electronics sector. HP is keen to identify how we can continue to improve our environmental performance efficiently and use savings to deliver lower prices and better service for consumers and thus a competitive advantage for the company. However, as with all large organisations it will take time for these developments to become integrated into the processes and culture of HP. In this sense, individual producer responsibility is a longer-term game than direct regulation, but is likely to produce much more beneficial results.

9.3 However, when looking at the current developments in European legislation we are concerned that the significant changes brought about by the WEEE Directive will not be given sufficient time to “bed down” into the culture of manufacturers before the next major piece of legislation comes into force. Not only does this mean that new legislation being developed will not be able to take into account the effects of the WEEE Directive, but also that companies such as HP will be focused on the development of new Directives rather than on implementing the current regulations to best effect.

9.4 This could mean that the intended outcomes of the WEEE Directive may be hampered and delayed by the introduction of new regulations before existing regulations have had time to take hold. From HP's perspective this also means that resources may be diverted from optimising the implementation of one set of regulations to the process of consulting on a further set of regulations or directives.

October 2003

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### **Memorandum submitted by Static Control (E18)**

I am writing to you as chairman of the Environment Select Committee about our serious concerns regarding the Government's proposed implementation of the Waste Electrical and Electronic Equipment (WEEE) Directive. We believe the Government's proposal will have grave implications for the environment, business choice and the revenues received by charities involved in recycling.

As you may be aware, the WEEE Directives came into force on 13 February 2003 with all EU Member States required to transpose the Directives into national law by 13 August 2004. The Directive encourages and sets criteria for the collection, treatment, recycling and recovery of waste electrical and electronic equipment.

At present the UK Government does not consider printer cartridges to be included within the scope of the Directive, despite both the intention of MEPs and the overwhelming environmental and business benefits to be gained by their inclusion. This exclusion seriously threatens the future of the cartridge remanufacturing industry and by implication the ability of the charity sector to collect and resell cartridges.

We are campaigning hard for the Government's position to be reversed and hope you will support our efforts. I hope therefore you will consider signing EDM no 1319, which has all party support (apologies if you have already done so), and will make representations to the relevant Government ministers: Stephen Timms MP and Elliot Morley MP.

The Government has the opportunity to encourage remanufacturing of printer cartridges which is environmentally more effective than recycling and provides business with cheaper equally efficient alternatives. There is, therefore, no logical reason why they continue to refuse to countenance including cartridges.

23 October 2003

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**Memorandum submitted by the UK Cartridge Recyclers Association (UKCRA) (E19)**

I am writing in respect of the inquiry the Environment Committee is holding into the WEEE Directive. As you may be aware, there has been widespread concern amongst recyclers, in particular the remanufacturing sector; charities and environmental NGOs that printer cartridges are being excluded from the directive by the UK Government. I very much hope, therefore, that the committee will address the limited scope of the UK's interpretation of the Directive, inquiring why printer cartridges (toner and inkjet cartridges) are being excluded when there are significant benefits to business, the environment and good causes to be derived by their inclusion.

The exclusion of cartridges has become an issue about which a number of MPs, across all parties, have become concerned. Indeed, aside from EDM no 1319, there has been a plethora of parliamentary questions tabled which have received wholly unsatisfactory responses from the Government.

For your information, I am attaching a short briefing note [not printed] on these issues. However, the basis of our arguments can be summarised as:

- Printer cartridges meet the definition of electrical/electronic equipment contained in the directive and recently agreed by the EU technical adaptation committee (see DTI website).
- The Government claims that cartridges are consumables (we contest this) but nowhere does the Directive state that consumables are excluded.
- If the UK Government wants to exclude all consumables, it can do so without excluding cartridges as a specially defined consumable—the Directive allows for gold plating.
- There is no doubt that MEPs believed printer cartridges to fall within the scope of the Directive, when they voted by an exceptional majority for the inclusion of what was to become Article 4 of the Directive.

*6 November 2003*