



Department
for Business
Innovation & Skills

Department for Business, Innovation
and Skills,

1 Victoria Street,

London, SW1H 0ET

Date: 12 February 2016

Re: Feedback on the 7 Scheme proposal for a WEEE compliance fee.

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

Yours sincerely

BIS WEEE Team

Feedback

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

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

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

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

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

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

The mark for each question was multiplied by the relevant weighting and all weighted marks added together to give a final score. Out of a maximum score of 72 marks, your proposal scored 22.

1 - Proposed methodology for the calculation of the fee.

Weighting 5 = 20 marks available

Your score (0-4) – 1

Your weighted score (x5) - 5

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

Evidence and information suggest that the market is in a period of transition, in which a rebalancing of WEEE collections to more closely match individual PCS collection targets is taking place. This process is ongoing as many PCSs hold long-term contracts with local authorities to collect their WEEE. As a result, previous over-collectors are still likely to be in a position to over-collect. BIS recognises that applying an escalator based on a percentage of a PCS's own target ensures that it is not unduly punitive for large obligation PCSs during this period of adjustment.

The panel agreed that the proposal does set out a methodology for calculation of a compliance fee which the panel felt would encourage schemes to take steps to meet their collection target. The fee methodology consists of making an estimate of the marginal cost of collection combined with an escalator. The panel noted that the methodology is for the most part stream specific, with the exception of overhead costs.

However, there were many aspects of the methodology with which the panel were concerned with, as set out below:

- The list of direct costs used to calculate the base compliance fee is insufficiently specific. Depending on the definition of the direct costs listed, these could include costs which are not incrementally linked to the shortfall in collections. The panel was concerned that this could inflate the base compliance fee above the true marginal cost incurred by PCSs, therefore maintaining economic rents in the WEEE collection system,
- The list of costs also includes some that fall outside of those that the regulations require producers to pay. E.g. promotion of WEEE recycling,
- The 10% base escalator in the methodology appears to be an arbitrary additional cost with no sound economic rationale being provided in support this proposed 10% base escalator,
- The formula as it is written does not match the formula used to create the diagram on page 13 of the proposal and the value that the 10% base escalator is applied to is ambiguous; and
- The proposal does not explain how the methodology deals with the scenario where the base figure is a net income.

The proposal provides a short assessment of the current WEEE compliance fee arrangement. The panel felt the evidence provided to support their assessment was limited. The panel also felt that the bid lacked a systematic analysis of the proposed methodology, its consequences and ability to meet the objectives of a compliance fee.

The panel agreed that the rationale provided for the fee calculation formula (including the 10% base escalator and the choice of escalator gradient) was limited and the proposal lacked justification as to why this formula was chosen over any other.

In addition, a number of producers responding to the consultation raised concerns that the proposed methodology would likely lead to the return of economic rents. Other feedback via the consultation raised concerns about the level of consultation that had been undertaken by the proposers with stakeholders. No evidence has been provided that the proposed methodology was supported by EEE producers. Producers also raised concerns via the consultation that the proposed methodology would likely lead to higher overall compliance costs due the reintroduction of economic rents.

2 - Proposed administration of the fee.

Weighting 3 = 12 marks available

Your score (0-4) – 1

Your weighted score (x3) - 3

The proposal places all of the overhead costs in administering the fee onto users of the fee, in addition to the compliance fee itself. The panel is unable to assess if this is reasonable as the proposal does not show the variable costs for each of the participants. No information is provided in the proposal that would demonstrate how such variable costs would be determined. There is no mechanism in place which will control or limit the costs of the administrator. The panel had significant reservations that no governance process appeared to be in place nor any form of oversight on the administrator's costs. The panel was also very concerned that this aspect of the proposal would place unknown costs onto producers and this concern was shared by some consultation respondents.

The panel recognised that the proposal described a mechanism for submission of cost data, but it did not explain a robust process for auditing data submitted by a participating PCS. Some consultation respondents were concerned that seeking to use data from all schemes would place additional burden onto those schemes that did not need to use the fee.

The proposal states that commercial confidentiality will be maintained but does not provide an explanation of any procedures or safeguards to ensure this will happen.

The environment agencies are satisfied that describe the mechanism for ensuring the environment agencies receive necessary evidence that an appropriate compliance fee has been paid by PCSs is sufficiently explained in the proposal. The agencies are also satisfied that the proposal does not place additional burden on them.

The proposal shows that the impact of other laws has been considered and that limited contingency plans have also been considered.

3 - Proposed methodology for the dispersal of funds

Weighting 4 = 16 marks available

Your score (0-4) – 1

Your weighted score (x4) - 4

The proposal states that all compliance fee funds received after deduction of the administration fees will be distributed to the DTS. However, it was confirmed at the presentation stage that the proposers have not consulted and agreed this with the administrators of the DTS. Additionally, the panel noted that there is no evidence producers have been consulted on this point. The details are limited to the statement that the funds will be allocated to the DTS. The proposal also assumes

without agreement with the administrators that validation of the appropriate use of funds would be achieved by the DTS.

The governance arrangements between the proposer and the proposed operator are not clearly explained. It is also unclear in the proposal as to how the proposed operator of the methodology would be contractually engaged and to whom they would be responsible.

4 - Proposed timetable for implementation and operation

Weighting 3 = 12 marks available

Your score (0-4) – 2

Your weighted score (x3) - 6

The panel agreed that a plan for implementation and operation had been set out in a sufficient way. A process for staffing the proposals are also shown, although the panel felt this was in a limited form. The panel agreed that the proposal demonstrated an understanding of project dependencies

The panel was content that the proposal shows a clear process for developing and implementing the IT systems. The panel was concerned at the limited nature of the proposed contingency plans in place. A more comprehensive contingency may have helped to improve this element of the proposal.

5 – Experience of proposer and proposed operator

Weighting 2 = 8 marks available

Your score (0-4) – 2

Your weighted score (x2) – 4

The panel felt that the proposal provided evidence of a good track record of working in a regulatory environment. However, the panel was concerned that only limited evidence of mitigating risks internally was provided. The panel was also concerned at the lack of detail around the contractual relationships between the proposer, the administrator and DTS administrator and this meant that wider risk management was not sufficiently defined.

The proposal demonstrates clear experience of setting up systems to allow data to be submitted and processed effectively and it shows relevant transferable skills from experience on part of the PRN system.

6 - IT systems

Weighting 1 = 4 marks available

Your score (0-4) – 2

Your weighted score (x1) – 2

The proposal describes IT and IT support in simple terms and the panel felt that the proposal is unclear on how commercially confidential data will be kept secure.