

# Response to the Commission’s Consultation on the “Analysis of the Interface between Chemicals, Products and Waste Legislation”

Brussels, 7 July 2017

## Introduction

DIGITALEUROPE, as the voice of the digital technology industry in Europe, welcomes the opportunity to contribute to the Commission’s consultation on the “analysis of the interface between chemicals, products and waste legislation”.

While we agree to the importance of a smooth transition of recycled materials from waste to new products, we will only comment in detail on the first two complexities mentioned in the stakeholder consultation paper: “insufficient information about substances of concern in products and waste” and “presence of substances of concern in recycled materials and in articles made thereof”.

We would also like to make the following observation: the tensions between chemical-product-waste legislation exist not only for recyclers but also for manufacturers engaged in repair activities. Recent decisions to grant short exemptions for legacy spare parts, for example, are at the expense of product longevity. We support safeguarding the principle of “repair as produced” as outlined in the Restriction of Hazardous Substances (RoHS) for electrical and electronic equipment Directive<sup>1</sup>.

## Insufficient information about substances of concern in products and waste

In order to complete the materials cycle, i.e. closing the gap between product waste and materials, re-use is a key priority.

In general, this requires that the recycling process output provides significant volumes and acceptable quality of materials including data on **substances of concern** present in the secondary or “2<sup>nd</sup> hand” raw material.

Not all materials have the same properties and hence the same reuse potential. Metals which are in demand and technically easy to separate— are generally recovered and re-used (e.g. steel, aluminum, copper, gold, and many others). Impurities are well controlled through metallurgical processes and recycled content is present in virtually all such metals available on the raw materials market.

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1 As recognized in EU RoHS, the availability of spare parts for electronics is key for allowing the repair, reuse and upgrades of equipment already placed on the market. Without this principle, equipment would either become prematurely obsolete or, at best, increase the cost of repair and upgrades. As an example, see our position paper on PFOA restriction at [http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core\\_Download&EntryId=2310&language=en-US&PortalId=0&TabId=353](http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=2310&language=en-US&PortalId=0&TabId=353)

For plastics, the separation process is not as straight forward. What is more, not all plastics can be easily re-used. The materials used are often of a more complex nature with fillers and additives to ensure stability and required performance parameters.

Electronic products that have been disposed of, arrive at recyclers in a stream of very diverse nature (different product types, age etc.). Furthermore, each product contains a mix of various plastics each of which have their specific composition. They may even vary per producer depending on e.g. the specific material properties required. Separating all the individual materials into individual streams is currently not a technical reality nor realistic economically. This results in a number of plastics streams that contain each a mix of materials which are, although of the same plastics family, still very diverse in content. To understand what **substances of concern** are potentially present, a recycler could look to producers to provide substance content data. However, as the fractions of plastics with a certain but differing composition in the end of life feedstock will vary continuously, this producer information cannot result in reliable data relative to the concentration of such substances in the final material streams. Therefore, DIGITALEUROPE is convinced that emphasis must be placed on doing **accurate analysis of the waste streams** to determine what they contain and how to develop techniques for their correct treatment. We fear that, due to the mixed WEEE stream, requesting producers additional information on product level beyond what it is already provided for today (see e.g. IEC 62474 Database<sup>2</sup> and WEEE Art. 15<sup>3</sup>), will not help recyclers to better determine the composition of the recycled materials.

Whether or not substances of concern are present in the output streams of a recycler may impact the method of shipment to the next level processor until the stream ceases to be waste. This also depends on whether or not the substance of concern involved is needed for reasons of specific functionality.

## Presence of substances of concern in recycled materials and in articles made thereof

Presence of substances of concern in recycled materials does limit the ability of global industry to re-use such materials in the EU due to REACH and where relevant sector specific legislation exists.

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<sup>2</sup> [IEC 62474's Database](#) contains a set of over 100 substances that are either restricted or reportable. It is maintained twice a year by the global IEC 62474 Validation Team to ensure it is updated with changing requirements. If a substance is known to be sometimes relevant in electrical and electronic products, it is listed as reportable in the database. Thus, information on substances possibly relevant for electrical and electronic products is available in the database. The database may be interactively queried, or the complete list may be downloaded as an Excel spreadsheet.

<sup>3</sup> In 2005 EICTA (former DIGITALEUROPE), CECED, and EERA agreed to a [standard template](#) as to how producers should comply with the information for treatment facility requirement of the original WEEE Directive (old article 11). From discussion with recyclers, it has become clear that the documents which producers have been developing for each product newly placed on the market according to the standard format agreed in 2005, have been of very little use to recyclers. Indeed, it appears that only **aggregated** information at product **category** level (e.g. plasma TVs, CRT TVs, Notebooks etc.) is beneficial to recyclers' current processes. The electronics industry and the electronics recyclers are therefore currently investigating the possibility of using an online platform to share information for recycling purposes on product **category** level as part of their efforts to meet the requirements of article 15 of the WEEE Directive.

In some cases, the presence of a substance of concern may be needed due to functionality and a less hazardous alternative may not always exist, even if preferred from a precautionary perspective.

Once any stream resulting from recycling ceases to be waste and becomes feedstock material again, all substances of concern need to be known. Restricted substances (e.g. REACH and where relevant sector specific legislation applies) should not be present above regulated thresholds for the specific application.

With the growth of the number of substances of concern over time and the lapse of time between purchase of a product and the moment where it ends up in the waste stream, uncertainties over what can be re-used are large. Only at the time of obtaining feedstock materials a check versus the latest requirements can be performed. However, the lack of appropriate test methods to analyse the presence of certain substances at very low thresholds might make it near impossible to assess that plastics don't contain any of the given substances of concern. An example of such problem is the Stockholm Convention that set requirements on the phase out of specific brominated flame retardants (BFRs), while WEEE plastics recyclers do not focus on individual BFRs but instead sort out the whole BFR family. Analysing the individual brominated flame retarding substances vs analysing total Bromine content is a very expensive and time consuming process that does not lead to additional environmental protection.

Furthermore, competent authorities dealing with the transboundary shipments of wastes adopt different interpretations on what is required with respect to waste streams of EEE. As a consequence of the differing interpretations of the EU legislations, the cross border traffic with WEEE plastics fractions has become extremely difficult and in some cases even impossible. Compliant EU WEEE plastics recyclers thus have difficulties in sourcing material for recycling.

Industry has been experimenting with the use of recycled plastics in electrical and electronic equipment since the early 2000s. At present, however, there are a number of challenges yet to be overcome for recycled plastics to be more widely used. While recyclers have made technical progress in the past few years, it is still not easy to find sufficient supply of high quality post-consumer recycled plastics that meets all the technical, economic, and other functional requirements.

In our publication "[Best practices in recycled plastics](#)" we further elaborate on a number of additional challenges and barriers we see to a greater use of recycled plastics. In our view, the most critical element for success is to encourage the development of innovative treatment and recycling solutions for plastics (e.g. solvent based recycling technologies, fillers' treatment) in the marketplace and to put in place framework agreements that will encourage uptake and ensure scalability of already existing initiatives (e.g. financial incentives or R&D support for recycled plastic projects).

## Conclusion

DIGITALEUROPE looks forward to being an active player in the Commission's thinking on how to improve the interface between EU waste, chemicals and product legislation.

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## ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total 25,000 ICT Companies in Europe represented by 61 corporate members and 37 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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