

DIGITALEUROPE Recommendations for the Modulated Fees Guidelines

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INTRODUCTION

DIGITALEUROPE companies are driving and implementing Circular Economy practices into their daily business activities. Our members strive to be at the forefront of new sustainable initiatives, as shown through our ongoing best practices. As such, we support the Commission's initiative to address the challenges of moving to a Circular Economy.

This paper provides recommendations for the key high-level principles for fee modulation as input to the Consultants and the Commission who are tasked with issuing guidelines to Member States for the fee modulation by end of 2019.

SUMMARY

1. The criteria should be aligned with existing standards and ecolabels criteria to generate greater rewards for good product design and reduce the administrative burden.
2. It is vital that the criteria used to differentiate the financial contributions paid by producers are harmonised between Member States to provide consistent incentives and rewards to manufacturers; but should be implemented in line with Member States existing WEEE systems.
3. Implementing harmonised criteria should not disrupt existing Member States WEEE systems. Whereas the criteria for Modulated Fees should be determined at EU-level, the mechanism and the amount of adjustment should be decided at national level.
4. The financial contributions paid by producers should continue to fund collection related activities and the real end-of-life treatment costs only; and be based on the net costs of waste management.
5. Funding to national WEEE systems (PROs or Producer Compliance Schemes) should remain net neutral to avoid surplus funds. Higher fees (malus) should be offset by lower fees (bonuses).
6. Criteria should be limited to the targets of the Waste Framework Directive and not contradict with REACH, ErP or other specific legislation.
7. The criteria used to differentiate the financial contributions paid by producers, should be updated from time to time to reflect technological progress.
8. The criteria should be simple and enforceable; and based on criteria within existing standards and ecolabels to amplify the incentives generated and streamline the administrative burden of compliance; and reported against objective claims through a self-declaration process.

HIGH-LEVEL PRINCIPLES FOR FEE MODULATION

1. The criteria should be aligned with existing standards and ecolabels criteria to generate greater rewards for good product design and reduce the administrative burden.

For policies to reach the proper order of magnitude, and not contradict each other, incentives and requirements for good product design should be aligned to and between existing standards and ecolabels criteria, fees and scoring systems.

It is important that criteria underlying recycling cost differentiations are consistent with internationally recognized environmental product labels and certification schemes, both in technical content and required documentation. All criteria must be based on a transparent process and robust data. Impact assessments need to be good practice for the establishment of such criteria.

Building on existing standards and ecolabels will support and amplify the incentives that are created; as well as streamlining the administrative burden of compliance for producers.

2. The differentiation criteria should be harmonised between Member States, but implemented according to the Member States existing systems.

It is vital that any criteria used to differentiate the financial contributions paid by producers are harmonised between Member States to provide consistent incentives and rewards to manufacturers and implemented in line with national circumstances.

Modulation criteria should be harmonised at EU level to avoid inconsistent incentives and the criteria should be reviewed from time to time to reflect technological progress.

As criteria are used to differentiate the financial contributions paid by producers, criteria should be harmonised between Member States and where possible be compatible with internationally recognised environmental product labels and certification schemes to provide consistent incentives and rewards to manufacturers.

Producers design products for all EU Member States, products are not usually localised. Criteria must not be contradictory as they are rolled out in different Member States and be harmonised across the EU to provide a compelling incentive to drive design changes.

If different Member States adopt different criteria, a patchwork of different criteria will be unlikely to generate a sufficient scale of incentives to drive changes to product design. Such an approach would merely create a large administrative burden for producers and is unlikely to result in environmental benefit.

Therefore, we are suggesting that the Commission develops harmonised criteria and ensures these criteria are adopted by Member States. We strongly recommend the Commission not to wait for a proliferation of different criteria before attempting harmonisation. It is already clear today that simply issuing guidelines will not ensure a European-wide harmonization.

3. The fee adjustment should be made on the national level.

Implementing harmonised criteria should not disrupt existing Member States WEEE systems. Whereas the criteria for Modulated Fees should be determined at EU-level, the mechanism and the amount of adjustment should be decided at national level.

Member States WEEE systems are based on the principle of subsidiarity and reflect local preferences. Disrupting local systems could be unpopular with Member States and producers and therefore represent a barrier to the acceptance and implementation of the harmonised criteria.

Disrupting local systems could also damage competition and therefore lead to a substantial increase in WEEE costs. Competition has enabled substantially more efficient and lower cost WEEE systems, while achieving the same and in some cases higher levels of collection than non-competitive WEEE systems.

The mechanism and the amount of fee adjustment should be decided at national level as WEEE costs are different per country, and the level required will depend on the system in place. Fee modulation can be implemented in both monopolistic and competitive WEEE systems.

4. The financial contributions paid by producers should continue to fund collection related activities and the real end-of-life treatment costs only; and should not exceed the costs that are necessary to provide waste management services in a cost-efficient way.

It is important that the financial contributions paid by the producer should be based on the real end-of-life costs of treating specific products. This would provide incentives for greater reusability and recyclability.

Currently recycling costs are not always reflected in producer fees across all take-back schemes. In some countries this leads to excessive costs being charged, or even cross-subsidisation between product categories.

It should be strongly discouraged to base modulation on the purchase price of the device. Such approach would effectively lead to an additional, disproportionate tax-like burden on high-quality, durable products.

In addition, the Waste Framework Directive (Article 8.4c) states that the costs borne by producers must *'not exceed the costs that are necessary to provide waste management services in a cost-efficient way'*. The long-term trend of the increasing value of waste means that many waste streams have a positive value. Therefore, only the net costs of waste management should be borne by producers.

5. WEEE system funding should remain net neutral.

Funding to national WEEE systems (PROs or Producer Compliance Schemes) should remain net neutral to avoid surplus funds. Higher fees (malus) should be offset by lower fees (bonuses).

6. Criteria should be limited to the targets of the Waste Framework Directive and not contradict with REACH, ErP or other specific legislation.

It is equally important to achieve a consistent set of incentives that do not contradict each other, as it is to avoid regulation of the same issues in different regulatory measures.

7. The criteria used to differentiate the financial contributions paid by producers, should be updated from time to time to reflect technological progress.

The technological development of EEE is changing at a fast pace. Therefore, we recommend that such an implementing measure can be updated from time to time to reflect technological progress and new insights.

8. The criteria should be simple and enforceable; and based on criteria within existing standards and ecolabels to amplify the incentives generated and streamline the administrative burden of compliance; and reported against objective claims through a self-declaration process.

The differentiation of recycling costs should not create new administrative requirements (for example to visibly display fees on invoices or at point of sale). Additional administrative burdens are contrary to efforts to increase the competitiveness of the EU and will act as a disincentive for differentiation of recycling costs.

As an example, companies operating across Europe may well be issuing over 500 reports every year to their compliance schemes, typically in more than just one WEEE category. The introduction of modulation of criteria means that every product in every report needs to be assessed against the criteria. Claims or maybe supporting evidence need to be made available. The modulation of criteria has the potential to proliferate the reporting complexity drastically.

It is highly preferable that companies can use existing efforts to demonstrate environmental leadership to demonstrate compliance with ecomodulation criteria. For example, a number of companies work hard to achieve EPEAT bronze/silver/gold for their products or seek ecolabels. Criteria should be designed in such a way that compliance with EPEAT, ecolabels or comparable efforts can be used to claim ecomodulation advantages.

To ensure a level-playing field, distance sellers and market places need to be subject to ecomodulation just like any other market player.

To ensure easy enforceability, the Commission should consider how to ensure that each criteria can be checked against clear, objective evidence of a claim. Reporting requirements for equipment should not be more complex than current requirements. We recommend a system based on self-declarations. This will require supporting documentation. Such documentation should be harmonised across the EU and should not have to be made available in multiple languages nor require local test reports.

CONCLUSIONS

The above recommendations for the principles for fee modulation should be accompanied by detailed technical criteria that DIGITALEUROPE members will attempt to develop in the coming months. Industry remains willing and ready to provide the necessary support needed to develop guidelines on EPR fee modulation by the end of 2019.

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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 over 35,000 ICT Companies in Europe represented by 65 Corporate Members and 40 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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