

Managing your WEEE responsibilities



The Waste Electrical and Electronic Equipment (WEEE)¹ directive is a pan-EU² initiative that holds “producers” of electrical devices responsible for the collection, treatment, recovery and environmentally sound disposal of their products at end of life. In line with the EU’s theme of ‘polluter pays’ legislation, the directive aims to encourage environmentally friendly product design and minimise the volume of waste going to landfill.

The directive was scheduled to be implemented on 13 August 2005 but many countries have been late to meet this deadline due to complexities in legislative drafting, each Member State having some freedom in how they interpret and adopt the directive, as well as delays in setting up national infrastructure for WEEE take back and management. The directive is complemented by a sister directive on the Restriction of certain Hazardous Substances (RoHS)³ that bans the use of six toxic substances in electronic products and came into effect on 1 July 2006.

¹ Directive 2002/96/EC of the European Parliament and of the Council of the European Union of 27 January 2003 on Waste Electrical and Electronic Equipment (WEEE).

² The directive extends to the European Economic Area (EEA) which also includes Iceland, Liechtenstein and Norway.

The directive covers ten categories of electrical and electronic equipment.

- 1 Large household appliances
- 2 Small household appliances
- 3 IT and telecommunications equipment
- 4 Consumer equipment
- 5 Lighting equipment
- 6 Electrical and electronic tools (with the exception of large scale stationary industrial tools)
- 7 Toys, leisure and sports equipment
- 8 Medical devices (with the exception of all implanted and infected products)
- 9 Monitoring and control instruments
- 10 Automatic dispensers.

The cost of WEEE to liable companies will vary widely, but has been estimated by some major producers at several percent of annual sales revenue. The UK government estimates the costs of complying with WEEE in the UK alone to be between £217 and £455 million per annum.

The EU is the first major region to enact such comprehensive end-of-life legislation for electronics but many other countries across the world are considering similar regulation including several US states, China and Japan. As a result one of the key challenges now facing companies operating in this field is complying with the multiple different regulatory regimes governing end-of-life product management.

³ Directive 2002/95/EC of the European Parliament and of the Council of the European Union of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

Producer responsibility

The directive assigns liability to three types of producer:

- Manufacturers that sell Electrical and Electronic Equipment (EEE) under their own brand name
- Organisations that resell equipment produced by other suppliers under their own brand name
- Organisations that import or export EEE on a professional basis into an EU member state.

Producer responsibilities under the directive differ for WEEE that is from private households and non-private households, as well as WEEE from products put on the market before 13 August 2005 (historical WEEE) and WEEE put on the market after that date (new WEEE). For new household WEEE, producer liability is determined by the amount of waste arising from the producer's own products that he has placed on the market. For historical household WEEE, the liability is dependent upon the producer's market share by type of equipment in a measurement period and the amount of that type of equipment separately collected in a subsequent period e.g. if a producer has 10% share of the IT desktop market in a country in 2006 they will be responsible for 10% of all desktops returning in that country in 2007, regardless of who manufactured them or when. Distributors who supply electronic products must also provide take back services for WEEE on a one-to-one, like-for-like basis free of charge, but are not responsible for treatment or disposal of collected product if they do not hold producer status.

For WEEE from users other than private households liability further differs. For new non-private household WEEE, producers are responsible for their own products. However, when a producer supplies a new product that is a replacement for an old product that is equivalent or fulfills the same function, the supplier of the new product is responsible for financing collection, treatment, recovery and disposal of the historical waste product. Other historical WEEE is the responsibility of the end user⁴. Producers and users are however free to conclude alternative financing arrangements. In this respect it is critical that purchasing and sales departments understand WEEE and factor liability and costs into contractual negotiations.

Producers must ensure that all their products are correctly marked with the crossed out wheeled bin symbol to indicate separate waste collection is required. The bar indicates the product was put on the market after 13th August 2005.

Wheeled bin symbol



Producers must arrange logistics and recycling for the collection and processing of their waste responsibilities on their own or pay a third party or scheme to do so on their behalf. They must also provide proof of compliance to the regulator in accordance with the size of their liability to discharge market share commitments.

The directive further stipulates that producers must present a financial guarantee for new household WEEE to safeguard against orphan product costs arising in the event of corporate default such as insolvency or market exit.

Article 8 of the WEEE directive states that:

'The Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE will be financed...The guarantee may take the form of participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account.'

The guarantee thus ensures that the expected costs a firm incurs under WEEE will be met in the future if and when they arise, regardless of the producer's existence or ability to pay. Guarantees must be acceptable to regulatory authorities but also satisfactory to a firm's auditor who will likely demand minimum financial strength or credit rating criteria of guarantee providers.

⁴ Some countries mandate that the end user is responsible for all non-household historic waste.

The insurance solution

Of the three forms of financial guarantee outlined as acceptable, it is the opinion of Marsh that insurance based solutions can offer several fundamental advantages:

Capped liability	Insurance offers an effective way to limit a company's future liability arising from WEEE obligations and allows confidence in budgetary planning. Insurance premium pricing will also reflect the waste value potential of a firm's products and so reward eco-design efforts.
Flexibility	Insurance can be structured on a bespoke basis and align with an organisation's requirements. For instance, it is possible for a WEEE insurance policy to fully transfer a producer's obligations under WEEE, including both household and non-household responsibilities, or solely provide the guarantee element. It may also be possible to use a company's captive for claims payment. Claims volatility hedging could also be managed using alternative risk transfer techniques.
Pan-European deployment	Insurance based solutions can be structured to provide full pan-European compliance or offer compliance options in countries with inefficient or expensive infrastructure. It is unilaterally acceptable as a guarantee throughout all EU Member States that allow individual compliance.
Accounting	Insurance may offer an advantageous accounting position, negating the need to provision a reserve for future costs on the balance sheet. Furthermore, if balance sheet impact is an issue, insurance solutions can be designed to limit negative balance sheet implications.
Claims administration	A critical aspect of WEEE compliance is the administration of claims arising from products that have entered the waste stream and the production of compliance data to discharge market share commitments. Insurers have extensive expertise in claims management and can offer cost-effective administration that can be integrated into a company's existing or contractual waste supply chain infrastructure.
Working capital management	Marsh can tailor an insurance solution to allow 'pay as you go' type arrangements. This structure does not tie up large quantities of working capital, which could prove problematic under blocked bank account or some bond arrangements.

Insurance solution structure

The type of solution a client will require will depend on multiple factors, including:

- Product lines and composition
- Financial, accounting and strategic objectives
- Third party agreements and existing infrastructure regarding waste management
- Credit rating and balance sheet strength
- Country infrastructure
- Risk appetite.

By considering such factors Marsh will structure the most suitable solution in line with the client's desires, including addressing the practical concerns surrounding WEEE infrastructure management if required. For example, Marsh will work with pre-qualified insurers to develop a fully managed 'one stop shop' solution, incorporating the financial guarantee in conjunction with third party waste management and logistic partner services. Under this scenario, future WEEE obligations corresponding to products placed on the market in the year of coverage will be fully transferred to the insurer, but unlike a collective scheme pricing will be influenced by the client's individual products. This approach to integrated solutions can also be adapted to incorporate a producer's own logistics and waste management infrastructure, allowing the client to access the financial benefits an insurance framework can provide while utilising their own assets.

Alternatively, a partial or fully collateralised bond may be more appropriate where clients wish to manage physical claims individually but still need to provide a financial guarantee. Instruments to hedge future claims cost volatility may be a desirable addition under this type of funding arrangement and can be structured with the bond or as a stand alone tool.

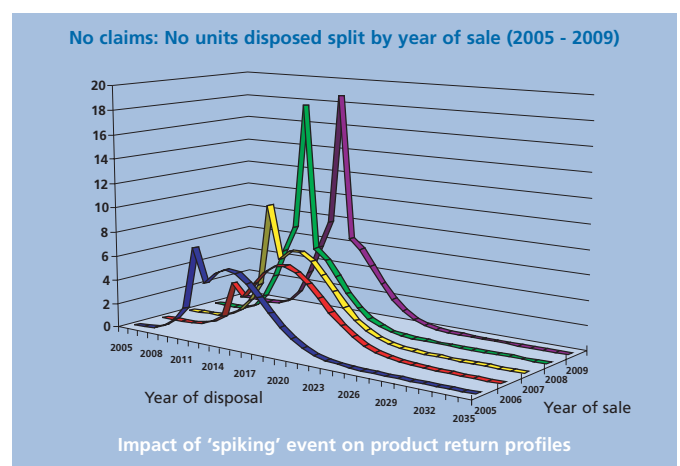
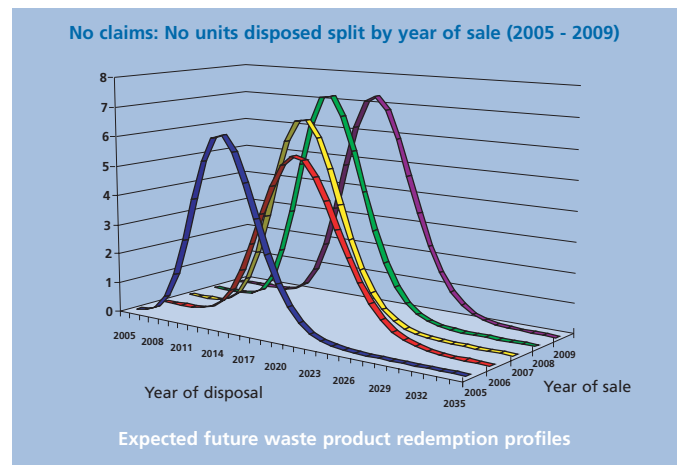
Future liability modelling

Marsh has developed a stochastic model which uses both actuarial and insurance market methodologies to quantify a company's projected liabilities and cost scenarios under the WEEE directive. In addition to quantifying the financial obligation, this tool allows companies and insurers to design and evaluate the most appropriate and cost effective insurance programme structure.

Our bespoke liability model will:

- Integrate and quantify internal and external data sets to project future claims cost scenarios
- Investigate ramifications of 'wild card' and 'catastrophe' events
- Evaluate analytical results.

Simulating future outcomes – product return profiles



Source: Marsh Risk Consulting



How Marsh can help

Marsh has a dedicated team which has been tracking this legislation for two years and developing innovative risk modelling, management and financing options for major manufacturers, business-to-business providers, retailers and compliance schemes throughout the EU 25.

Due to the multiple interpretations of the WEEE directive in each country coupled with the wide ranging strategic and management objectives of our clients, Marsh has approached solution development to WEEE with a flexible attitude to offer bespoke services and solutions tailored to clients needs.

About Marsh

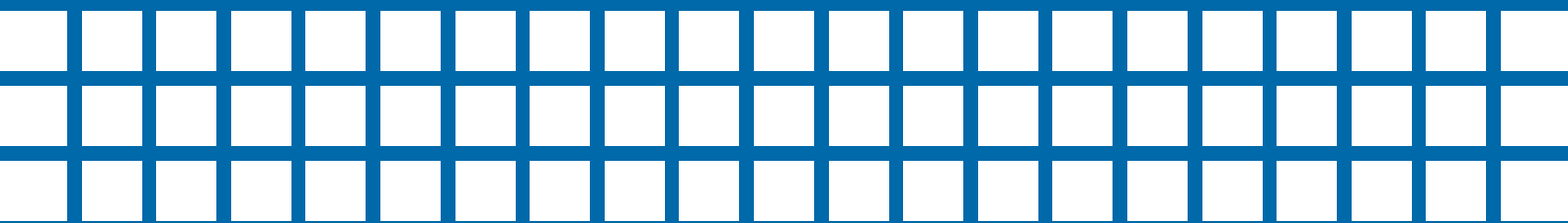
Marsh is the world's number-one risk and insurance services firm. Our services include risk management, risk consulting, insurance broking, financial management, insurance programme management, risk analysis, audit and identification, and claims processing. Our client base is extremely diverse, including small and large businesses, public entities, associations, professional services organisations and private individuals in over 100 countries.

For more information on how Marsh can assist you in successfully managing WEEE please contact:

Matt Elkington

Tel: 44 (0) 207 357 5162

Email: matthew.elkington@marsh.com



The information contained in this publication provides only a general overview of subjects covered, is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Insureds should consult their insurance, accounting and legal advisers regarding specific coverage issues.

This document or any portion of the information it contains may not be copied or reproduced in any form without the permission of Marsh Ltd, except that clients of Marsh Ltd need not obtain such permission when using this report for their internal purposes.

Marsh Ltd is authorised and regulated by the Financial Services Authority

© Copyright 2006 Marsh Ltd All rights reserved