

# Position Paper

Brussels

7 November 2016

**Commission Implementing regulation establishing a common methodology for the calculation of the weight of electrical and electronic equipment (EEE) placed on the market in each Member State and a common methodology for the calculation of the quantity of waste electrical and electronic equipment (WEEE) generated by weight in each Member State (*hereinafter: "the Implementing Regulation"*)**

## Background:

According to Article 7(1) of the Directive 2012/19/EU on Waste Electrical and Electronic Equipment (*hereinafter the on "WEEE recast Directive"*), Member States will have two ways to demonstrate compliance with the new minimum collection rate from 2019 onwards. They can either collect “65% of the average weight of EEE Placed on the Market (*hereinafter “POM”*) in the three preceding years in the Member State concerned”, or collect “85% of WEEE generated on the territory of that Member State”. Article 7(5) of the WEEE recast Directive requests the Commission to establish common methodologies for both the calculation of the “weight of EEE POM” and of the “quantity of WEEE generated in each Member State”.

The United Nations University (UNU) supported the Commission as consultant in developing the methodologies. They also created the UNU - keys, intended be used to harmonise the domestic production, import and export statistics needed for the POM calculation in the various EU Member States.

## Major issues for the lighting sector:

EucoLight, the European association of Lighting WEEE compliance schemes, has reviewed the Draft Implementing Regulation.

It herewith praises the efforts of the Commission to establish common methodologies for the sake of harmonised implementation of the collection targets of WEEE in the Member States.

However, the Draft Implementing Regulation contains major shortcomings for the lighting sector, in particular the **EEE lamp data used in the methodology tool** supporting the draft Regulation on Waste generated methodology is materially **incorrect** which means we cannot support the proposal.

EucoLight encourages the Commission and the Member States to address the following issues at the time of the finalisation and adoption of the Implementing Regulation. Failing so, the Draft Implementation Regulation cannot be supported. The issues that need to be addressed are:

### 1. Solving the issue of inaccurate statistics in the UNU model

EucoLight has alerted the Commission on several occasions since mid-2015 about serious issues with that statistical data in the UNU tool. This is a matter of deep concern for our sector.

EucoLight reviewed that statistical data for lamps placed on the market in a number of Member States and has demonstrated that there is a considerable discrepancy between the UNU statistics included in the electronic tool, and the actual data recorded in those Member States. In some countries we observed data from UNU statistics that are a multiple (e.g. 2 fold increase) compared to the data collected and reported in Member States. EucoLight members contribute to, and have confidence that the data recorded in those Member States is correct, and also that the data contained within the UNU tool is incorrect. This information has been shared with the European Commission.

The publication of the UNU data - unchanged - without a clear warning or disclaimer in the Implementing Regulation would be highly detrimental, as it creates legal uncertainty for producers of EEE and their compliance schemes. This would be particularly the case if the Member States who choose to use the WEEE generated methodology do not correct the data. If this were to happen, Producer and compliance scheme targets in some Member States would be far too high, and probably unachievable, leading to cost and compliance risks.

This problem has been acknowledged in the “Note of the authors” of [the Study on collection rates of waste electrical and electronic equipment \(WEEE\)](#) (2014), worked by United Nations University (UNU), which serves as background documentation for the Implementing Regulation:

*“The data on the quantities of EEE placed on the market in each Member State (POM data) used in the electronic tool developed in the context of this study for the calculation of the quantity of WEEE generated (WG) is based on calculations made on the basis of the “apparent consumption methodology”, as described in this report. This data is used for the purposes of the study and does not necessarily reflect EEE/WEEE data made public by the Member States or industry associations. The data used in the tool may be subject to changes and updates by Member States on the basis of National Register data, sound available data and the expertise of relevant stakeholders.”*

*“The calculation of the quantity of WEEE Generated made in the context of the study is based on the initial allocation of individual UNU -KEYs to collection categories. Results might slightly differ when allocating UNU - KEY 0501 to Small Equipment collection category and when changing lifetime profiles for specific products such as LED lamps as agreed during the stakeholder consultation carried out after the completion of this study and the release of this report”.*

Nevertheless the study is not the legislation itself and the problem needs to be addressed in the Implementing Regulation through appropriate wording. A clarification in the legislation would be sufficient to solve the issue. It is indeed essential to inform Members States in the text of the implementing Regulation that the EEE data for previous years provided in the electronic tool is estimated and therefore, must be confirmed by each Member State prior to using the tool. This is necessary to remove financial uncertainty and risk for producers and compliance schemes.

To this end, we propose the following solutions which consist in the insertion of a simple disclaimer or clarification in the text of the implementing Regulation article 4 (Methodology for

the calculation of the quantity of WEEE generated by weight in each Member State) and/or in the Regulation **preamble** stating that:

- the statistical data in the calculation tool should be confirmed by the Member State prior to using the tool (option 1)
- or, alternatively, that the methodology applies only to the calculation of the total WEEE generated in a Member State and not for the calculation of WEEE generated for individual WEEE categories (option2).

### Solution Option 1

Inclusion of the following wording in the preamble of the Implementing Regulation (possible new indent (7) :

*“(7) Notwithstanding, the above data on the quantities of EEE placed on the market in each Member State used in the electronic tool developed for the calculation of the quantity of WEEE generated (WG) is based on calculations made on the basis of the Apparent Consumption Methodology. This data not necessarily reflects EEE/WEEE data made public by the Member States or industry associations. The data used in the tool may be subject to changes and updates by Member States on the basis of National Register data, other sound available data and the expertise of relevant stakeholders.”*

And/or insertion in article 4 of the Implementing Regulation:

*“2. Member States, if applicable, may update the data on EEE placed on the market for past years that the electronic tool uses for the calculation of the weight of WEEE generated and which have already been provided in the tool, taking into account that the data in the tool is estimated and, therefore, must be confirmed by each Member State prior to the use of the electronic tool. Any such update shall be based on sound available data and include the expertise of relevant stakeholders.”*

### Solution Option 2

Inclusion of the same wording of the Option 1 in the preamble of the Implementing Regulation (possible new indent (7) :

*“(7) Notwithstanding, the above data on the quantities of EEE placed on the market in each Member State used in the electronic tool developed for the calculation of the quantity of WEEE generated (WG) is based on calculations made on the basis of the Apparent Consumption Methodology. This data not necessarily reflects EEE/WEEE data made public by the Member States or industry associations. The data used in the tool may be subject to changes and updates by Member States on the basis of National Register data, other sound available data and the expertise of relevant stakeholders.”*

And/or insertion in article 4 of the Implementing Regulation:

*“2. The data of weight of EEE placed on the market contained under the aforementioned electronic tool shall only apply for the calculation of the annual total target of Member States, not including thereto a methodology for the calculation of a particular target for aspecific WEEE category.*

*The data used in the electronic tool may be subject to changes and updates by Members States on the basis of National Register data, other sound available data and the expertise of relevant stakeholders.”*

## 2. Solving technical issues in the UNU model

In the stakeholder consultation phase of the Draft Implementing Regulation, EucoLight drew the attention of the Commission to important technical issues for lighting associated with the electronic tool for the calculation of the quantity of WEEE generated developed by the UNU. It is important to verify that these points have now been solved in the final version submitted for vote by the Member States.

- **Change of wording of specific UNU-Keys and change of allocation of UNU-Keys:** Some UNU-Keys were poorly defined and not correctly aligned with the legally applicable EEE categories contained in WEEE Recast Directive. The Commission responded to our request, and the UNU adjusted some of the definitions, to better align with the directive. In particular, we seek confirmation that the following changes are now accurately reflected in the final version for voting:

<i>Initial proposal</i>	<i>Corrected draft</i>
0501: Lamps (e.g. pocket, Christmas, excl. LED & incandescent)	0501: <b>Small lighting equipment Lamps (e.g. pocket, Christmas, excl. LED &amp; incandescent)</b>
0505: LED lamps (incl. retrofits LED lamps and household luminaires)	0505: LED lamps (incl. retrofits LED lamps <b>and household LED luminaires</b> )
0506: Household luminaires (incl. household incandescent fittings)	0506: Household luminaires (incl. household incandescent fittings <b>&amp; household LED luminaires</b> )

- **Change of lifetime profiles for the LED lamps in the calculation tool.** Originally established in 4 years and now adjusted to 10 years.
- **Flexibility of the tool:** Possibility of Member States to change the EEE data in the WEEE Generated methodology model if Member State believes that the data is not accurate and has access to more reliable information.

Initial talks with the European Commission gave indication that the above issues have been corrected. We have no reason to believe that this would not be the case, but we ask you, as Member of the TAC to check if these issues are in the final version presented to you for voting.

### Conclusion:

The proposed recommendations changes are an essential condition for the lighting sector to support the above-mentioned Implementing Regulation. In particular, a failure to implement either Option 1 or Option 2 above to solve our concerns regarding the inaccurate data included in the tool would have serious detrimental consequences of the collection of lighting products in the Member States.

**About EucoLight:**

EucoLight is The European association of collection and recycling organisations for WEEE lamps and lighting. On behalf of its 19 members, EucoLight engages with everything related to the WEEE Directive, legislations and standards affecting the collection and recycling of WEEE lighting.

EucoLight is the voice of European WEEE compliance schemes specialised in managing the collection and recycling of WEEE lighting; working to make the circular economy a reality for lighting products.

Founded mid-2015, EucoLight has quickly embarked into constructive dialogue with relevant stakeholders to provide expertise in the field of management and treatment of WEEE lighting and to promote the positive role of Extended Producer Responsibility schemes on the environment and society.

For more information, visit the EucoLight website [www.eucolight.org](http://www.eucolight.org), follow EucoLight on Twitter @EucoLight or contact the Secretary General, Marc Guiraud ([marc.guiraud@eucolight.org](mailto:marc.guiraud@eucolight.org)).