

Non-compliance leads to more than 'WEEE' consequences

September saw the first UK prosecution for an offence under the producer responsibility legislation for waste electrical and electronic equipment ('WEEE').

The WEEE Directive came into force in 2005 and is the European Directive that sets out the current WEEE framework. It encourages a more sustainable approach towards the treatment of WEEE by imposing the "polluter-pays" principle on producers of electrical/electronic equipment ('EEE'). The Directive is implemented in the UK by the WEEE Regulations 2006, and places various responsibilities on producers, distributors and business end-users.

Producers: As the original source of WEEE, producers have the greatest responsibility under the Directive, for both the collection and treatment of WEEE. They are required to join a WEEE Compliance Scheme ensuring compliance. They must also meet certain product labelling requirements, designed to make the equipment's end-of-life treatment easier and more effective.

Distributors: Those (e.g. retailers) supplying electrical and electronic equipment directly to household consumers are viewed as "distributors". They are required to facilitate the return of household WEEE, either by collecting WEEE in-store, or by joining a Distributor Take-Back Scheme, whereby consumers return WEEE to the nearest scheme collection point).

Business End-Users: If a business wishes to dispose of WEEE purchased after 13 August 2005, the producer will be responsible for financing the collection and treatment of this waste. The Directive allows producers and businesses to agree to alternative financing arrangements, meaning a business can become responsible for the treatment of its own WEEE. If businesses wish to dispose of WEEE purchased before 13 August 2005 ('historic WEEE'), then the business itself will have to pay – unless replacing WEEE with an equivalent new product, in which case the producers will again be responsible.

In the UK prosecution mentioned, Aston & Fincher Ltd, a hairdressing supplies company in Birmingham, pleaded guilty to charges dating from 2001-2007 relating to their failure to register as a of electrical/electronic waste. The company imported electrical items into the UK, but failed to meet their obligation of registering with an appropriate Producer Compliance Scheme. The company also pleaded guilty to charges of failure to comply with waste packaging regulations. The offences were all uncovered by the Environment Agency through routine investigation.

Aston and Fincher were fined £650 for each separate offence, which – with a total of 31 charges against the company – amounted to £20,150. However, along with £7,135 the company was ordered to pay in compensation to the Environment Agency, and £3,605 in costs, the total came to £30,890.

By comparison, registering correctly would have the company less than £11,000 for the years concerned.

In attempted mitigation, the company secretary of Aston & Fincher pointed out that the company did not deliberately flout the regulations; rather they were simply unaware of them.

However, a company's responsibility for its waste is no exception to the established legal principle – ignorance of the law provides no excuse. Companies should be aware of their obligations under the WEEE Directive, and ensure compliance. This will save significant costs, not to mention the potential damage to reputation.

Jamie Grant is a Partner, and Head of the Environment Group, at MacRoberts LLP. For further information, please email jamie.grant@macroberts.com

This article featured in the November 2010 issue of CABLETalk

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