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Ref.No.MAIT/PY/2436

February 12, 2022

Shri Ved Prakash Mishra, IRS
Director
Ministry of Environment, Forests & Climate Change

Subject: Revised Final Inputs from MAIT reg. E-waste management rules 2016 & Amendments Proposed thereof

Respected Sir,

Greetings from MAIT!

We thank you for your active participation in the MAIT-CEAMA Joint Workshop with MoEF&CC on Industry challenges and issues related to e-waste.

As always, it was an excellent open interaction and thank you for acknowledging the industry concerns and the promise to consider resolving them. We are attaching the draft minutes of the meeting herewith for your kind perusal. From the interaction yesterday we have been informed that the Gol is looking at amending the e-waste management rule 2016 and hope to notify the same by 1st April 2022.

We are quite encouraged to note that the Ministry is reviewing the current rules and considering amendments. Given paucity of time, we are submitting our preliminary comments. We would request that our feedback is duly incorporated in the draft being worked upon by the Ministry.

We request you to please refer to the revised **Final Representation attached herewith dated February 12, 2022 with Ref.No.MAIT/PY/2436.** And kindly request you to **treat the earlier representation dated February 10, 2022 Ref.No.MAIT/PY/2435 as cancelled.**

MAIT proposes the following areas of amendment in the E-waste Rules 2016:

- 1. Amend the definition of “Refurbisher” to differentiate between Refurbisher Business Activity and Service center also called “repair center” business activity in the Circular economy value chain.**

A. **Existing Definition:** 'Refurbishment' means repairing of used electrical and electronic equipment as listed in Schedule I for extending its working life for its originally intended use and selling the same in the market **or returning to owner;**

B. **Proposed Definition:** "Refurbishments means repairing of used electrical and electronic equipment as listed in Schedule I including replacing its worn-out components where required for the purpose of extending its working life beyond its originally intended use and subsequently selling / leasing the same in the market."

Rationale:

- Refurbishment is a business activity, where a “used product” is repaired and sold as a “Second-hand Product (nearly as good as new)” in the market.

- A service center / Repair center is a business activity, where a customer's product is Repaired (broken or defective parts, software and hardware are replaced) and the **product is returned to the original owner**. The repair activity is done under Warranty obligation, AMC cover or on a per-incident repair.
- The scope and extent of work happening in a refurbishing business is very exhaustive as it is a re-manufacturing activity. When regulatory requirements prescribed for a refurbishing business are applied on a service center where the scope and extent of work is substantially low it becomes an over prescription and may push brands to limit the number of service centers. Thus, access to affordable and convenient service centers to customers may become a challenge forcing customers to dispose their devices early leading to more consumption and increase in e-waste generation in the Country. Further, this does not align with the principles of Circular Economy and the product life extension/built-to-last principles cannot be supported.

There is a Digital Europe definition that we have attached as **Annexure 1** for your kind perusal.

2. Amend the definition of “Collection Centre” to differentiate it from “Collection Bins”.

A: **Existing Definition:** 'collection centre' means a centre **or a collection point** or both established by producer individually or as association jointly to collect e-waste for channelising the e-waste to recycler and play such role as indicated in the authorisation for Extended Producer Responsibility granted to the producer and having facilities as per the guidelines of Central Pollution Control Board, including the collection centre established by the dismantler or refurbisher or recycler which should be a part of their authorisation issued by the State Pollution Control Board where the facility exists;

B: **Proposed Definition:** 'collection centre' means a centre established by producer - individually or as association jointly - to collect e-waste for channelising the e-waste to recycler and play such role as indicated in the authorisation for Extended Producer Responsibility granted to the producer and having facilities as per the guidelines of Central Pollution Control Board, including the collection centre established by the dismantler or refurbisher or recycler which should be a part of their authorisation issued by the State Pollution Control Board where the facility exists;

Rationale:

- The current regulatory framework for “Collection Center” is designed towards the center as an aggregator and an in-transit warehousing of e-Waste in the circular economy value chain. However, to promote ease & convenience for hand carried drop-offs by consumers, the facility of a “Collection Bin” in a residential complex, Offices, Schools, Colleges, Service / repair centers, Retail outlets, malls, etc., would be an enabling step.
- Industry believes that setting up of “**Collection Bins**” should be promoted. However due to the lack of differentiation between a Collection Center, the regulator applies the “Collection Center” regulatory framework on “Collection Bins” making them violators of the law.
- The regulatory requirements for a collection bin should be limited to a Bin to be mapped to an “Authorised producer or PRO or Recycler or collection center” who sets it up. There should not be any requirement of local records to be maintained.

3. The amendment in rules to **modify the existing target framework to make it achievable**. With the 10% increase of e-Waste collection targets every year, India will soon touch a level of diminishing returns and unachievable targets. Hence, it becomes imperative to:

A. Keep the targets at current level for 5 years (from 21-22 to 25-26) with below considerations:

- a. Developed economies like EU and Australia follow similar approach of increasing the targets in blocks. These economies have well established e-waste ecosystem for years now but are still having collection targets in the range of 40-50%.
- b. On account of the wide economic disparity in India there is a hand-me-down culture and a vibrant second-hand product market of refurbishers. These tonnages do not get into the recycling chain.
- c. Presently, there is a huge gap between SPCB authorized capacities of e-waste recyclers in country and capacity as per CPCB guidelines based on Facility Area. In order to address/streamline these disparities the Government should work towards capacity building of Recyclers up to a level to cater the country's e-waste quantum. Till then collection targets should not be increased.
- d. The non-availability of e-Waste on one hand and the demand for recycled certificates on the other will lead to, inadvertently promoting illegal activities towards generating "Recycling certificates".
- e. The same can be reviewed once the mass balance system has matured and the recycling in the country has matured in terms of yield.

B. Increase the targets by 10% in a block of 5 years till the targets reach maximum of 70%-

Below is the rationale for the same: In addition to the above points-

- a. The law of diminishing returns as one approaches the maximum, will make the collection exercise economically prohibitive above a threshold. The costs eventually getting passed on to the consumer.
- b. Thus, a fine balance needs to be walked so that India achieves both its objectives of safeguarding its environment and its economy globally competitive vis-a-vis other economies that do not demand high EPR targets.
- c. India, unlike developed countries, has a widespread informal sector where majority of the e-Waste (non-bulk consumer) is getting collected. A major portion of this is getting diverted into dismantling and further reused in different sectors other than e-Waste. The informal sector dismantles and segregates the product into individual material categories of PCBA, plastic bodies, metal chassis, motor's, harness, etc. These flow into the formal recycling pathways which are other than E-waste but for PCBAs. The other materials which go into formal specialized channels for metals, plastics etc is not captured and accounted under E-waste.
- d. Indian is a fast growing economy and generally, the sales go up every year and therefore, the absolute quantum of e-waste recycling will go up even if the percentage is stabilized for 5 years.

4. The Electronics Industry played a contributory role in the formulation of India's EPR framework and e-Waste rules. Today, the electronics sector framework is the forerunner to the universal EPR framework evolving for Battery, Tyres, Chemical, Plastic waste, etc.

- The Electronic industry has always acknowledged and owned its responsibility of the EPR targets. However, the producer is only one of the stakeholders in a circular economy chain. The entire burden of e-waste management is placed on Producers, even for areas that are beyond its control / sphere of influence.
- Therefore, there is an urgent and critical need for the amendments in rules to identify and make every stakeholder in the e-Waste economic chain "Accountable".
- This, if done, will be a landmark change in e-Waste rules towards ensuring every key stakeholder is accountable to their individual role towards implementing and complying with the e-waste rules. It will translate into a market-driven, regulated, accountable and cost-effective e-Waste collection and recycling ecosystem with each stakeholder accountable to pull their weight under the law.
- This clarity in "identity" and "accountability" will promote / foster collaboration among stakeholders.
- Basis the experience of the industry over the last six years, we suggest that the following stakeholders be clearly called out and given an identity along with their accountability.
- Amended rules to identify key stakeholders:

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|---|---|
| Producer Entity | |
| PRO/ Formal Collection Sector Entity | |
| Informal Collection Sector / Kabadiwala's | Informal Sector |
| Collection Centres Entity | |
| Collection Bins Entity | |
| Formal Dismantler & Segregator Entity | |
| Informal Dismantler & Segregator Entity | Informal Sector |
| Formal Aggregator & Warehousing Entity | |
| Informal Aggregator & Warehousing Entity | Informal Sector |
| Transporter Entity | |
| Service Centre Entity | |
| Bulk Consumers | To bring due management focus, MCA to mandate an entity that generates more than a threshold of e-Waste, to register with CPCB as a bulk consumer and to report safe disposal in the "Business Responsibility Report" of its annual report. |
| Individual/ House hold consumer | Loosely Defined. Unsafe disposal to be made accountable. |

5. It is nearing five years since the “**Product Life**” has been reviewed. Electronics is a product sector that is most dynamically changing, the Industry requests that the amended rules should provide for **periodic review of “Product life”** to be in line with changing technology / socioeconomic changes:

Rationale: Factors driving these changes

- Changing product specifications that impact the life of a product, based on market demand.
 - Incorporation of Design for repairability into products.
 - Design guidelines of lowering the “Total cost of ownership”, reflected in the increasing warranty period offered from OEMs.
 - An aspiring but still economically constrained India adopting refurbished second-hand products.
 - Design for circularity.
6. Amendment that **permits Bulk Consumer Sales to be excluded from the EPR targets of Producers or Alternatively the Producer be given credit/ Scrip/ e-waste certificates for material supplied directly to recyclers by bulk consumers.**

As per E-waste rules- Rule 9- responsibilities of bulk consumer states that the bulk consumers are required to channelize E-waste through authorized recyclers and the waste generated by bulk consumers has to go to the authorized recyclers only.

Rationale:

- Considering above, the e-waste generated at Bulk consumer end after EOL of products, it will directly reach the Recycler and Producers do not have any access to this volume of e-waste towards target fulfilment.
 - It is suggested that these bulk consumer sales should be excluded while calculating the EPR targets of Producers.
 - Alternatively, producers should be allowed for credits equivalent to e-waste generated and channelized by Bulk consumer directly to recycler and these credits would set-off the equivalent qty. of Producer’s EPR targets.
7. MAIT requests for **Pre-consultation with Industry** on draft E-waste management rules prior to opening for public comments

Rationale:

As Producers are entrusted with major accountability, under EPR framework, it deems fair for them to be prioritised in consultation before the draft is put up for public comments. Moreover, producers are the primary and majorly affected party in this regime.

8. Industry requests Extension of **EPR Authorisation validity period** till new draft gets in effect

Rationale:

As the new draft notification and public consultation is expected to coincide with time when majority of the industry members will be due for their EPR Re-authorisation and as major amendments have been hinted upon, this provisioning will aid in seamless business operations in interim.

Industry would also like to highlight that the excessive information and data requirements fragmented regulatory environment, and arbitrary interpretations of the E-waste management rules negatively impacts ease of doing business and creates disincentives for producers to expand collection networks. MoEF&CC endeavouring to simplify the framework is a welcome step.

MAIT requests the draft prepared to be shared with the industry as an opportunity to review and give a structured feedback on the same. We would also request you to hold open house sessions with the industry. This is an important requirement of industry, which MAIT is fully committed to support.

With regards,

A handwritten signature in black ink, appearing to read "George Paul". The signature is stylized and cursive.

George Paul
Chief Executive Officer

Annexure – 1

Definitions as per DigitalEurope –

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| Description of refurbishment | <p>A process that may be used in B2B or B2C and that renders the product available for reuse through part removal and upgrades/replacements, and testing. The warranty that is issued covers the entire product.</p> <p>For most DIGITALEUROPE companies, the refurbished product may not be brought to the latest OEM specification or some smaller defects (such as a lower battery capacity) are not addressed as long as these do not have major impact on the use of the product. Some companies call their remanufacturing practice ‘refurbishment’ and would therefore bring the product back to at least production quality.</p> |
| Definition of “repair”¹¹ | <p>A process in B2C or B2B of fixing a specified defect (or series of faults) of a product. Repair ensures the quality and functionality and renders the product/component available for reuse. Repair takes place both within or out of warranty.</p> <p>Correcting software faults or bugs are usually not considered ‘repair’ as they are part of the service typically offered.</p> |

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