
Proposed WEEE Directive

A Step-by-Step Analysis

NEMI Product Take-Back and Recycling Workshop

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Outline

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| Section Two | Step-by-Step Analysis |
| Section Three | Four Implementation Options |
| Section Four | Financial Responsibility |
| Section Five | Discussion Points |

Section One

Background and Overview

Proposal for a European Directive on Waste from
Electrical and Electronic Equipment - WEEE

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Background to WEEE Directive

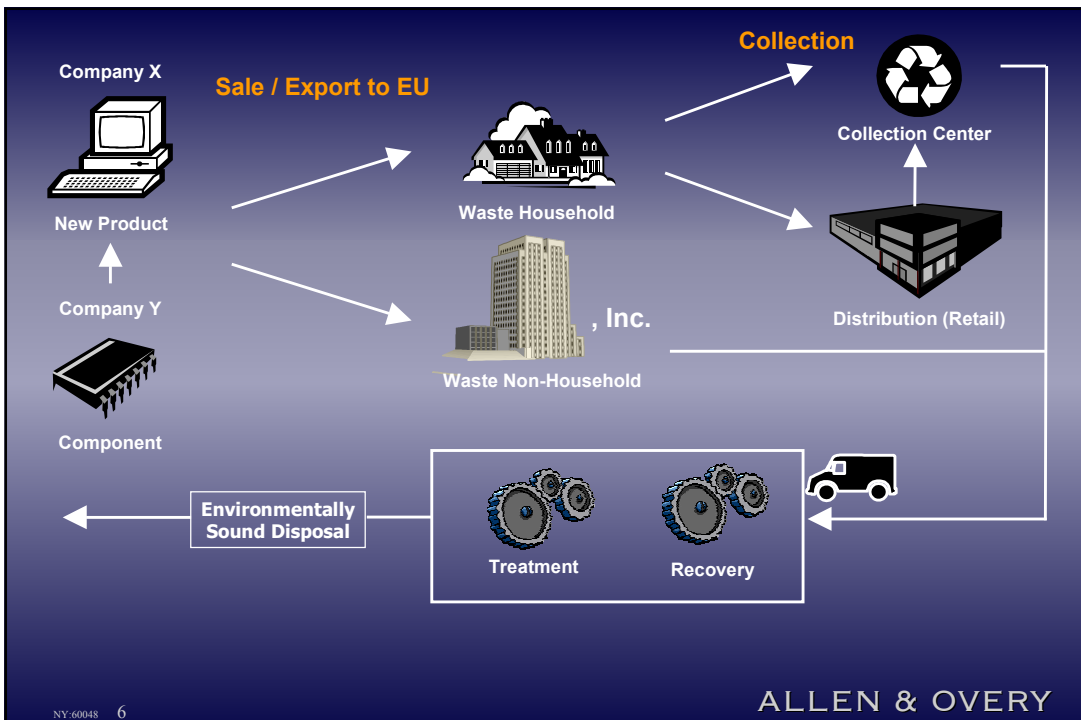
- ◆ Fifth Environmental Action Program (1993)
- ◆ Draft Directive
 - 3 actors
 - European Commission
 - European Council
 - European Parliament
 - Expected Entry into Force Mar. 2003

WEEE Directive Big Picture

- ◆ Recycling and Recovery Program
 - Applicable EU-wide
 - Producer pays principle: cradle-to-grave
- ◆ Not Unprecedented in Europe
 - Several similar programs set up domestically
 - Belgium's RECUPEL program
 - Packaging Directive

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Allen & Overy

- ◆ 2,500+ Attorneys Worldwide
- ◆ 40+ Environmental Attorneys
- ◆ 26 Offices Worldwide
 - Brussels Office: EU product take-back regulations
 - New York Office: US and EU environmental law
- ◆ One Law Firm = consistent advice across jurisdictions

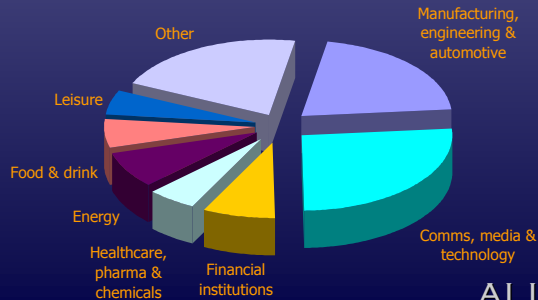
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The Corporate Client Base

- ◆ 20 of the Global 100 companies
- ◆ 24 of the top 100 Fortune 500 companies
- ◆ 262 of the Fortune 500 companies

Sectoral breakdown of Allen & Overy deal activity - 2001



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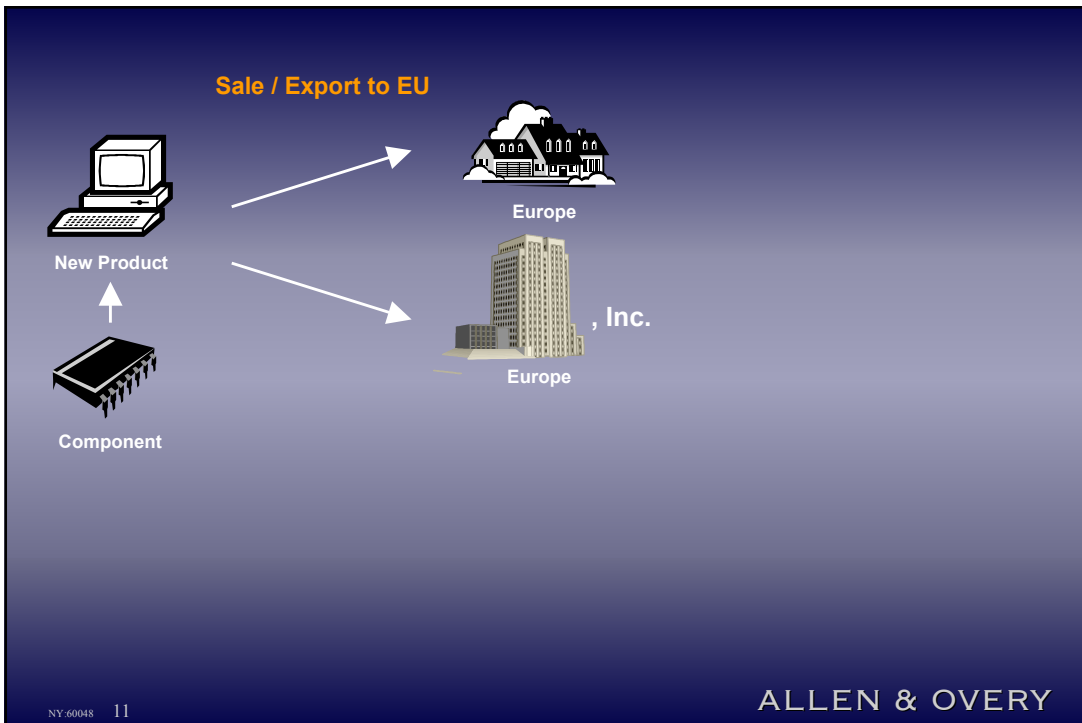
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Section Two

Step-by-Step Analysis

Proposed WEEE Directive

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What are EEE and WEEE?

- ◆ EEE is "equipment dependent on electric currents or electromagnetic field and equipment for generation, transfer, and measurement"
- ◆ WEEE includes "components, sub-assemblies, and consumables, which are part of the product and time of discarding"

What is Covered?

- ◆ Listed Categories of EEE
 - IT and telecom equipment
 - Consumer equipment
 - Electrical and electronic tools
- ◆ Non-exhaustive List of Covered EEE
 - Computers
 - Printers
 - Telephones
 - Calculators

Exemptions

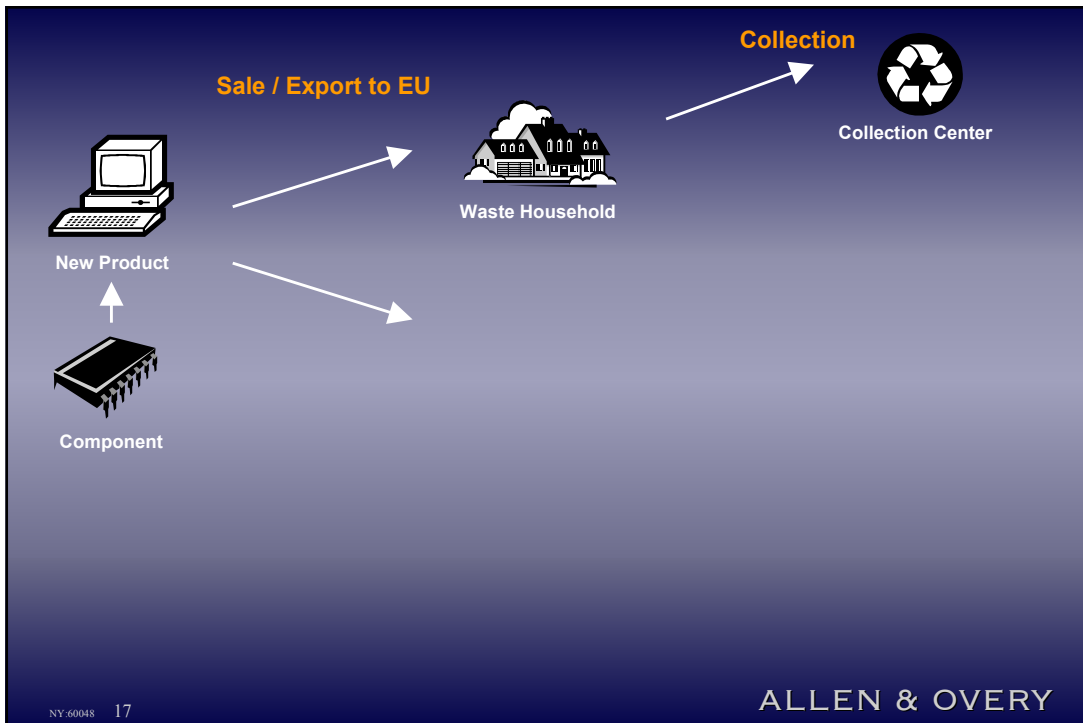
- ◆ Military Purposes
- ◆ Large-scale Stationary Industrial Tools
- ◆ Medical Devices
- ◆ [Small Independent Manufacturers]

US Companies Subject to WEEE

- ◆ Producers = All Companies that Sell in EU
 - Irrespective of selling technique (incl. internet)
 - Manufacturers selling EEE under their own brand
 - Companies reselling under their brand EEE produced by others
 - Persons importing or exporting on a professional basis to any member state ("first holder")
 - But excludes reseller if producer's name appears on equipment

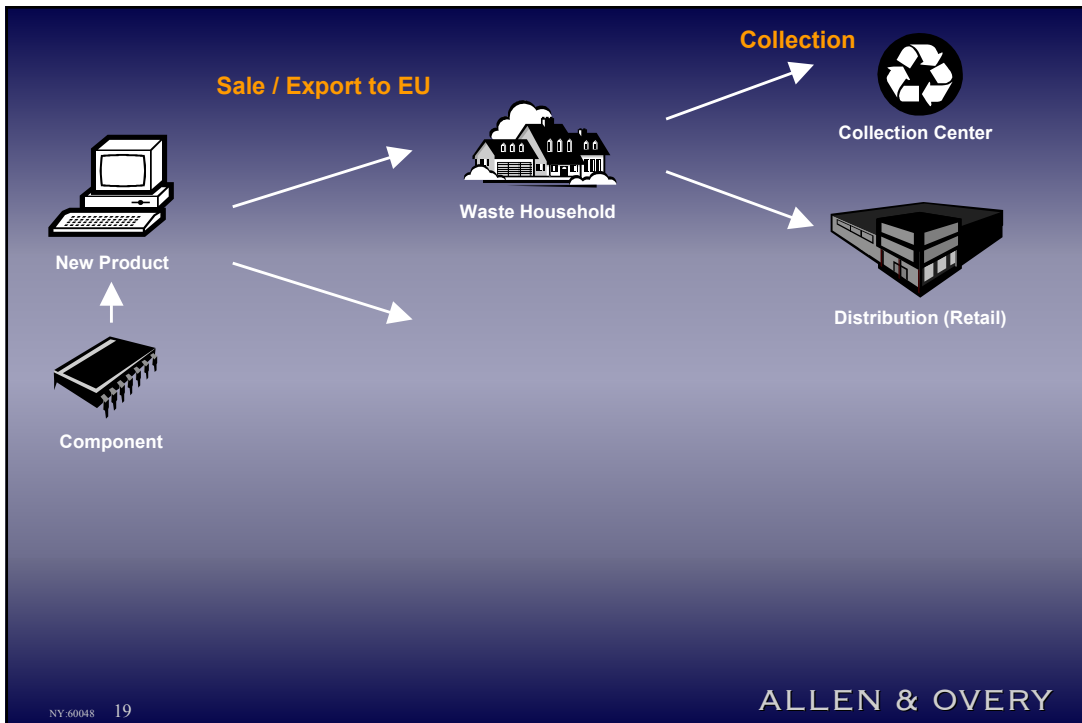
Collection Targets

- ◆ Household WEEE Only
- ◆ 4Kg or 6Kg/person/year
- ◆ Then, New Collection Targets will be Established by December 31, 2007



First Option for Private Individuals

- ◆ "Collection Facilities"
 - Obligation of Member States
 - "at least free of charge"
 - Belgium's "RECUPEL" example: applies to WEEE



Second Option for Private Individuals

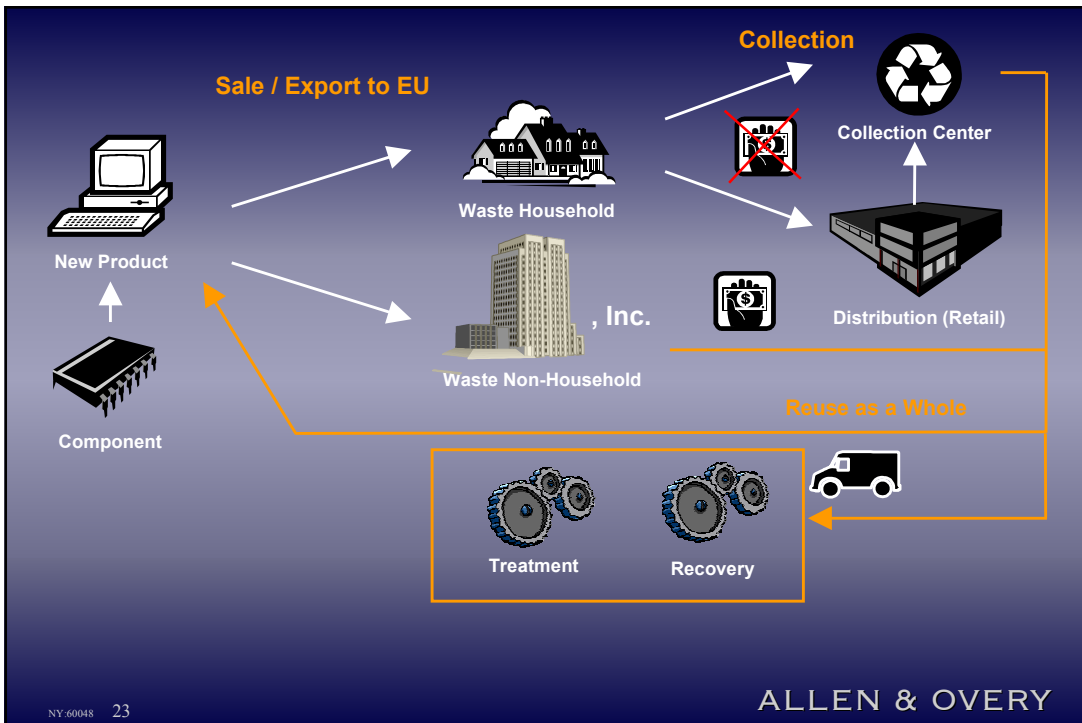
- ◆ Distributor
 - Person who provides EEE to users on a commercial basis
 - "at least free of charge"

Collection of Non-Household WEEE

- ◆ Non-Household WEEE
 - Producers are to provide for collection
 - May hire third party contractor
 - No requirement that it be free of charge

Collection Obligations of Producers

- ◆ Household WEEE
 - From "collection facilities"
 - Distributor brings WEEE to collection facilities?
- ◆ Non-Household WEEE
 - Producers finance the collection of non-household WEEE
 - No requirement that it be for free
- ◆ Following Collection, "re-use as a whole" or Transportation to Treatment Facility
- ◆ Individual or Collective



Treatment and Recovery Obligations

- ◆ Treatment is “depollution,” disassembly, shredding, recovery or preparation for disposal of WEEE
- ◆ Recovery includes recycling and incineration
- ◆ Individual or collective basis
- ◆ May hire third parties
- ◆ Treatment outside Member State is possible (contravene international trade law?)
- ◆ Environmentally sound disposal

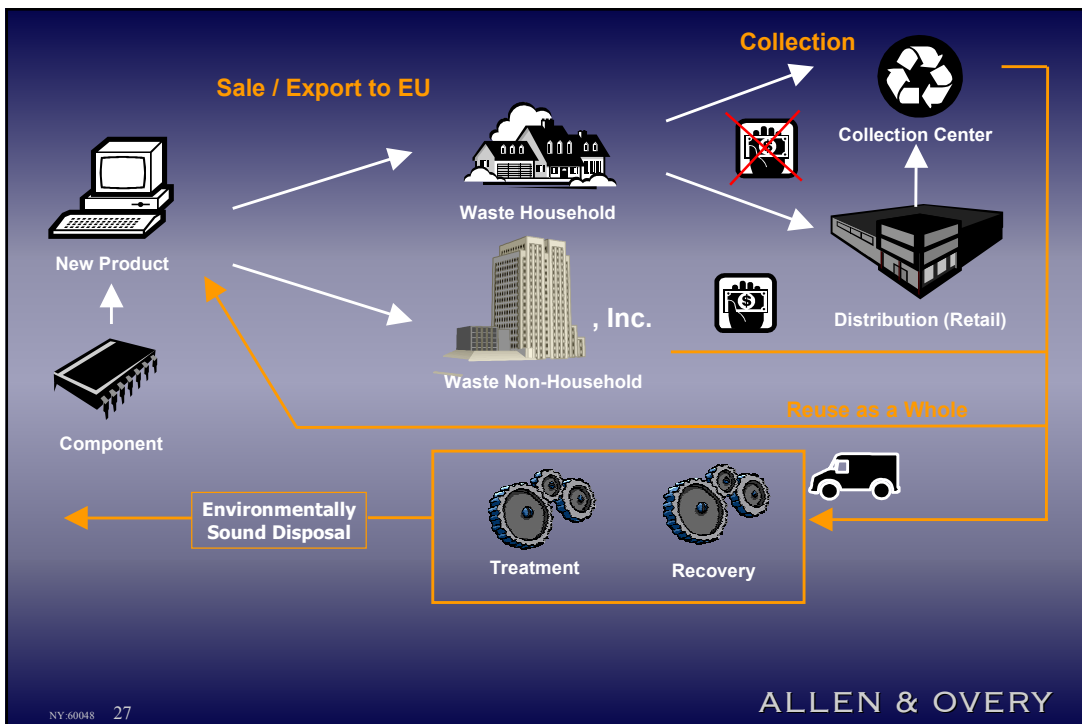
Recovery Deadlines and Targets

- ◆ Recovery and Recycling Time Frame: 2006-2007
- ◆ Recovery Targets - "per appliance" : 70-90%
- ◆ Recycling Targets: 50-80%

Section Three

Four Implementation Options

Proposed WEEE Directive



Implementation Guidelines

- ◆ Individual or Collective Basis
 - Collection (from collection points)
 - Treatment
 - Recovery
- ◆ Member States Implementation Spectrum

Option 1 - Mandatory Public

- ◆ Collective Only
- ◆ Ministry establishes a Mandatory QUANGO (Quasi-autonomous Non Governmental Organization)
 - State does everything - producers pay
 - No possible opt-out
 - Worst-case scenario?
- ◆ In practice: Belgium's RECUPEL and other programs

Option 2 - Public with Opt-out

- ◆ Collective with Possibility of Individual
- ◆ Ministry establishes a Mandatory QUANGO (Quasi-autonomous Non Governmental Organization)
- ◆ Producers May Opt-out and Establish Parallel Programs
- ◆ In practice: Belgium's VAL-I-PAC Program

Option 3 - Private Sector with Schemes

- ◆ Individual with Possibility of Collective
- ◆ No QUANGO
 - Government assigns targets - industry goes on its own
- ◆ May Establish Schemes
 - Registered: legal obligation passes to Scheme - Must be open
 - Unregistered: retain individual obligation
- ◆ UK Packaging Program

Option 4 - Private Sector Only

- ◆ Individual Only
- ◆ No QUANGO
- ◆ No Registered Collective Scheme
- ◆ Worst-case scenario?

Section Four

Financial Responsibility

The Best Way to Go
Individual or Collective?

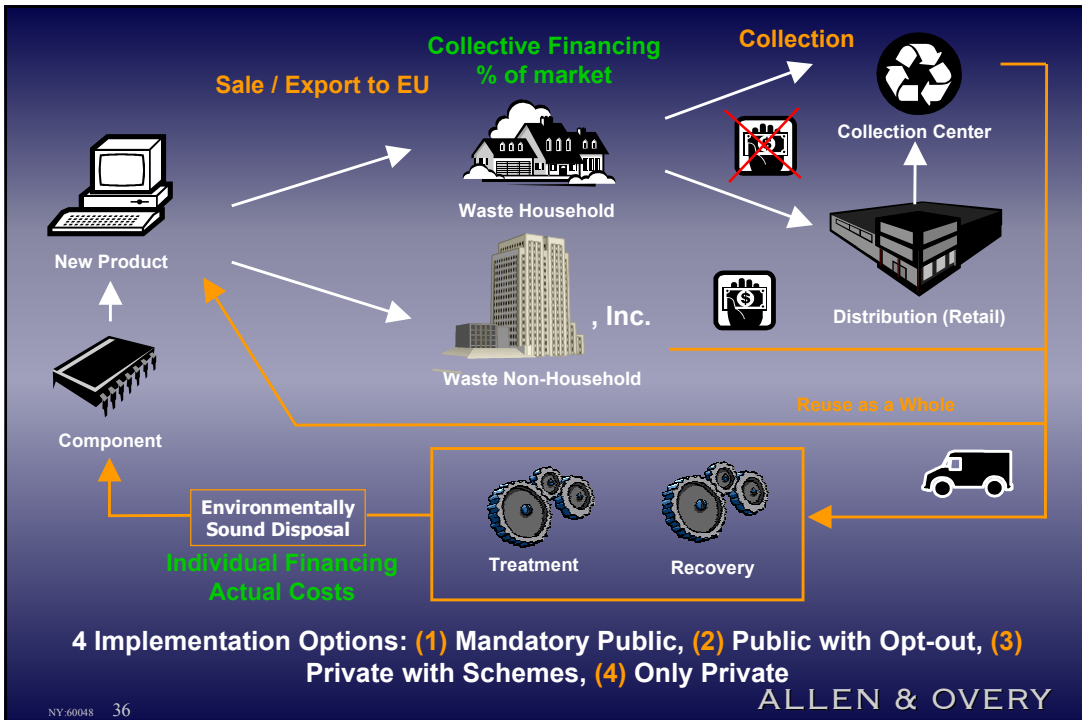
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Financial Obligations

- ◆ Producers must finance
 - collection
 - treatment
 - recovery
 - environmentally sound disposal
- ◆ Deadline is September 2005
- ◆ Disagreement over individual or collective

Individual v. Collective

- ◆ Individual
 - Each producer is responsible for the treatment of its WEEE that finds its way to the treatment system
 - Internalizes costs, encourages better design
 - High administrative costs: tracing WEEE
- ◆ Collective
 - Market share
 - Presumption that all WEEE costs the same to treat
 - Cheaper overall



Historical and Orphan WEEE

- ◆ Independent of individual and collective because specific provisions on the issue in Directive
- ◆ “Historical WEEE” for household
- ◆ “Orphan WEEE” for household and non-household

Impacts of Financing on Implementation

- ◆ Collective Financing
 - Fine with implementation options
 - Penalize good design
- ◆ Individual Financing
 - Option 1 mandatory public: fine but costly?
 - Option 2 public with opt-out: fine and flexible?
 - Option 3 private with schemes: difficult?
 - Option 4 private only: impracticable or prohibitive?

Section Five

Discussion Points

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Recap on Producer Obligations

- (1) Collection
- (2) Treatment
- (3) Recovery
- (4) Environmentally Sound Disposal
- (5) Information (not discussed here)
- (6) Design (not discussed here)

Potential Risks and Liabilities

(1) Is your company covered by WEEE?

- Penalties and liabilities

(2) Compliance Program

(3) Competitiveness Issues

(4) Domestic Implementation

- Follow regulatory developments
- Exclusion risks

(5) Centralized European waste facilities

Thank You
