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Director General  
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Stockholm 4 April 2008

**Re: Barriers to trade caused by technical specifications for the marking of products in the Swedish implementation of directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE).**

**Dear Sirs,**

**The sender of this letter would like to draw your attention to problems related to the implementation in Sweden of directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE) and ask the Commission urgently to undertake measures to eliminate the barriers to trade in Sweden which are caused by the WEEE legislation.**

The requirements in art 10.3 of the directive reads:

“3. With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, Member States shall ensure that producers appropriately mark electrical and electronic equipment put on the market after 13 August 2005 with the symbol shown in Annex IV. In exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the electrical and electronic equipment.”

The requirements in art 11.2 of the directive reads:

“2. Member States shall ensure that any producer of an electrical or electronic appliance put on the market after 13 August 2005 is clearly identifiable by a mark on the appliance. Furthermore, in order to enable the date upon which the appliance was put on the market to be determined

unequivocally, a mark on the appliance shall specify that the latter was put on the market after 13 August 2005 The Commission shall promote the preparation of European standards for this purpose.”

The Swedish Government has implemented this part of the EU legislation in “Ordinance on product responsibility for electrical and electronic products” SFS 2005:209, 11 §” as:

“A producer who sells electrical and electronic products in Sweden or at a distance to another Member State of the European Union shall ensure that the product is marked with

1. the symbol shown in Annex 2 to this Ordinance,
2. data showing that the product was put on the common market after 12 August 2005, and
3. the data required to identify the responsible producer.

If necessary because of the size or function of the product, the symbol referred to in paragraph 1 may instead be placed on the packaging of the product or in the written instructions for use or warranty that accompanies the product”.

Regarding the possible exception from the dustbin symbol, The Swedish Environmental Protection Agency has replied in an exchange of e-mails (transl.)

”This exception concerns only the crossed-out wheeled bin (point 1), the data required to identify the responsible producer and the data showing when the product was put on the market shall always be on the product. (point 2 and 3 )”

“Producer”, or Swedish “producent”, is defined in SFS 2005:209 3 § as:

“ For the purposes of this Ordinance a *producer* means a person who:

1. manufactures electrical and electronic products and sells them under his own brand,
2. sells under his own brand electrical and electronic products that do not have a brand that can be attributed to a producer referred to in point 1,
3. on a professional basis either imports electrical and electronic products into Sweden or exports such products from Sweden to another Member State of the European Union”.

### **Consequences for the Swedish market of the implementation of the WEEE legislation.**

As a consequence of the Swedish legislation producers have to ensure that all electrical and electronic products which are sold in Sweden are marked with information concerning the identification of the Swedish producer, the dustbin and the date when the product was put on the Swedish market.

### **Marking the product at the Swedish border prevents the free movement of goods.**

These requirements of marking products manufactured outside Sweden arise at the Swedish border and requests the “importing” producer to mark the electrical and electronic products with his identification mark, the symbol (the crossed dust-bin) and the date mark at the Swedish border before putting them on the Swedish market.

Even if the products are marked with the symbol and the date mark at the production the “importing” producer must make sure that the symbol and the date mark are properly applied and put his identification mark on the product before putting the product on the Swedish market.

**Marking requirements on product is an expensive and time-consuming procedure which strengthens the “technical barrier to trade” which prevents the free movement of goods.**

The majority of electrical and electronic products sold in Sweden are manufactured in countries outside Sweden. Most of these products arrive in Sweden in individual packagings) from the manufacturer. In order to get access to the product for the mandatory marking-procedure, an “importing” producer needs to open the packaging, mark the product with the necessary information, and close the packaging again. This procedure is particularly burdensome for SME who handle small volumes of products.

An increasing number of smaller products – especially electronic products – are packed in solid and closed plastic packagings, which are difficult to open. If the “importing” producer manages to open the packaging it can be damaged and has to be replaced by a new packaging.

**Prices for electric and electronic products will increase**

A survey in a major Swedish retailer shows that the prices for electrical and electronic products in closed plastic packagings can be as low as 10 euro. The cost caused by the mandatory marking process relative this price is very high.

The price for electrical and electronic products brought into Sweden will increase due to the added cost for the “importing” producer. A majority of electric and electronic products sold in Sweden are manufactured in countries outside Sweden. The price increase for these products will lead to *increased prices to the end-users* on the whole Swedish market for all electrical and electronic products. There is a considerable risk that small electrical and electronic products will increase radically in price.

**Products may be damaged during the marking process**

Some electronic products are so small that the marking on the product with readable text is *difficult or not possible*. ( The size of a SONY USB-memory is only 12 x 35 mm) .

There is also a risk that the function of product will be *damaged* during the marking process.

**Difficult legal situations might arise**

The risk for *legal disputes* will arise as there can be doubt of culpability - the manufacturer may withdraw his warranty for the good functioning of the product after this marking procedure. In severe cases the *product safety* of the product might be affected.

When the “importing” producer has put his identification on the product the authorities responsible for implementing product directives covering the product *might consider him responsible for putting the product on the EU –market* with all responsibilities.

**Limited supply to the Swedish market**

Swedish “importing” producers might find the marking procedure for products in solid plastic packagings too difficult or too expensive or too risky and may ultimately refrain from bringing these products in to Sweden. Since there are hardly any Swedish manufacturers for most of these products this may *limit the supply* of useful products on the Swedish market.

**Conclusion:**

The implementation of the WEEE legislation concerning the marking requirements results in many technical barriers to trade:

It *prevents the free movement* of electrical and electronic products and *hurt SME* , leads to *higher prices to end-users*. The marking can cause *technical problems*. *Legal disputes* can arise when the products is *damaged* and the manufacturers warranty *disputed*. The *product safety* can be affected.

The “importing “ producer can *be held responsible for putting the product on the EU-market*. Difficulties in marking may lead to a *limited supply* of useful electrical and electronic products on the Swedish market.

We against this background request the Commission to urgently undertake measures to eliminate the barriers to trade in Sweden which are caused by the WEEE legislation.

Yours faithfully  
Swedish Network for Trade and Industry

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**Swedish Network for Trade and Industry – Näringspunkten** - is a network with 85 branches who have 4 500 member companies. The members are mainly importing companies and small and middle sized manufacturing companies.

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