



**Proposal to the Department of Business
Innovation and Skills**

**Operation of a WEEE Compliance Fee for the
2015 Compliance Period**

September 2015

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1. Introduction to the JTA

- 1.1 This submission is a Proposal for a methodology for calculating and for administering a Compliance Fee, in accordance with Regulation 76 of the Waste Electrical and Electronic Equipment Regulations 2013 (as amended) and associated BIS guidance. It applies to the compliance year ending 31 December 2015.

1.2 Background

- 1.2.1 The Waste Electrical and Electronic Equipment (WEEE) Directive is a 'producer responsibility' measure where those entities that place goods on the Community market have to take financial responsibility for items once they have finished their use phase, so that the costs associated with treating and disposing of electrical and electronic equipment does not fall on society as a whole. It therefore follows that producers have the responsibility for paying a fair and reasonable price that is truly reflective of the costs associated with treating WEEE and disposing of resulting materials (taking into account the fact that many of the materials resulting from treatment are themselves re-sold as commodities).
- 1.2.2 The vast majority of producers, who are represented by the Trade Association members of the JTA, are therefore supportive of the changes introduced in the 2013 WEEE Regulations and related Guidance, because they have, and are expected to continue to, lead to more appropriate costs for producers. This was evidenced in the impact assessment issued by BIS in 2013, which is reinforced by the findings of an economics study by Frontier Economics Ltd., see Appendix 2 to this Proposal. Reflecting this, the JTA has invested considerable resources in preparing this 2015 Compliance Fee Proposal in support of the 2013 Regulations (as amended).
- 1.2.3 Collectively, the members of the Trade Associations that comprise the JTA employ nearly 1m staff in the UK, in around 7000 companies across all sizes of producers, from the very small to the very large, and supply to both the business-to-consumer and business-to-business markets. The JTA comprises all the major trade associations representing both business-to-consumer and business-to-business EEE producers in the UK. Moreover, this proposal has been prepared with the involvement of three producer-led WEEE compliance schemes and so it is likely that our combined membership represents approximately 90% of all WEEE producer obligations in the UK. This JTA proposal therefore strongly represents the voice of the Producer community and we believe it is fully consistent with the WEEE Directive's 'producer responsibility' duties.

1.3 The Joint Trade Association Group (Producer Responsibility) (JTA)

As explained previously, the WEEE Directive is a 'producer responsibility' measure. In order to ensure that the opinions of the producer community could be formulated and communicated to HM Government in as clear and effective a manner as possible, the major trade associations representing producers of electrical and electronic equipment (EEE) decided to work together on matters of common interest relating to

producer responsibility, including the WEEE Regulations. Thus, in 2010 the 'Joint Trade Associations' group was formed. It comprises:

- AMDEA: the Association of Manufacturers of Domestic Appliances
- BEAMA: (originally an acronym for the British Electrotechnical and Allied Manufacturers' Association)
- BTHA: British Toys and Hobbies Association
- EEF: (Originally an acronym for the Engineering Employers Federation)
- Gambica Association: (Originally an acronym for the Group of Association of Manufacturers of British, Instruments, Control and Automation)
- Intellect: (now techUK, the trade association for the Information and Communication Technology and Consumer Electronics sectors)
- LIA: Lighting Industry Association
- PETMA: Portable Electrical Tool Manufacturers' Association
- SEAMA: Small Electrical Appliance Marketing Association

1.3.1 In addition to the above Trade Associations that comprise the membership of JTA, three producer-led Compliance Schemes (PCSs) that are closely linked with JTA members and support the aims of the JTA actively participate in the JTA. These PCSs, (ERP, Recolight and REPIC) offer technical support to the JTA

1.3.2 The JTA operated on an informal basis until 2014 and put in place a formal constitution in early 2014. This body is still a grouping of trade associations i.e. it is an unincorporated body and not a legal entity. The constituted group is known as the Joint Trade Association Group (Producer Responsibility), although for brevity it still uses the initials JTA.

1.4 **Joint Trade Associations (Contracts) Ltd (JTAC)**

1.4.1 Because the JTA is not a legal entity a separate company, Joint Trade Associations (Contracts) Limited (JTAC), was formed for the express purposes of entering into contracts with third-party organisations for services such as the Compliance Fee administration. JTAC is a not-for-profit company, limited by guarantee rather than by shareholdings so that no distribution of funds to its members is possible. The members of JTAC are three trade associations within the JTA, namely AMDEA, LIA and TechUK, whose members have significant household WEEE obligations. The Directors of JTAC are senior representatives of these three Trade Associations.

1.4.2 By forming JTAC as described above and contracting-out responsibility for administering the compliance fee to a well-established, independent, organisation we

have ensured that all commercially sensitive information reported into the Compliance Fee administration system will be kept confidential within the independent administrator organisation only.

2. **Executive Summary**

Introduction: The JTA submitted a 2014 Compliance Fee proposal, which was approved by the Secretary of State for BIS and has been successfully implemented and operated, albeit the disbursement element of the 2014 Compliance period is not due to end until December 2016, when Local Authority projects are expected to be completed and reported.

This JTA 2015 Compliance Fee Proposal is based on the JTA 2014 Proposal with some adaptations to reflect:

- Changes in BIS guidance for the 2015 compliance period.
- Enhancements based on experience from the 2014 compliance fee mechanism to date – including feedback from the 2014 Administrator, BIS and other stakeholders.
- Enhancements based on the outcomes of an economic assessment of the effectiveness of the 2014 compliance fee methodology commissioned from Frontier Economics Ltd., an independent and respected economics consultancy firm.

The adaptations/enhancements are summarised in Appendix 6

The key strengths of the JTA 2015 Proposal are:

- A successful track record of operating the 2014 Compliance Fee mechanism.
- The Compliance Fee mechanism is operated by an independent Administrator, which is a UK top 10 accountancy firm with extensive experience in providing administration services on a strictly confidential basis.
- A reliable tried and tested methodology built by a leading economic consultancy firm, based on a robust economic analysis; subsequently re-validated by a separate respected economics consultancy firm.
- The infrastructure, resources and processes in place to deliver the operational requirements for the 2015 Compliance Fee mechanism

The main elements of the Compliance Fee mechanism put forward in this JTA 2015 Proposal are summarised as follows and explained in more detail in the other chapters and appendices of this Proposal:

2.1 **Compliance Fee methodology**

- 2.1.1 The recommended process to calculate the compliance fee is based on the same methodology used successfully for the 2014 Compliance Fee approved by the Secretary of State for BIS. The methodology was developed by FTI Consulting (FTI), a leading group of professional economists who have confirmed their support for their

2014 report to be part of the JTA 2015 Proposal. That report, including the economics analysis for the selection of the methodology, is attached as Appendix 1.

In addition, an economics assessment of the effectiveness of the approved 2014 compliance fee methodology was commissioned from Frontier Economics Ltd., (Frontier) another respected economics consultancy firm. The decision to use a different professional economics firm provides a further level of independent scrutiny of the methodology proposed. Their report is attached as Appendix 2 and confirmed that the 2014 compliance fee approach should broadly be retained in 2015, subject to two minor changes outlined in their report summary. They further concluded that the form of escalator employed in 2014 is working well and considered that there would not be any objective economic benefit from changing it.

- 2.1.2 The calculation is based on the weighted average net cost of direct collections and treatment transactions incurred by PCS's that decide to use the Compliance Fee for a collection stream. This excludes fixed overheads and the costs of indirectly acquired WEEE evidence. A separate fee is calculated for each collection stream of WEEE.
- 2.1.3 An escalation factor (the Escalator) will be applied to the calculation. The percentage increase in the fee depends upon how far away a PCS is from their collection target per stream. For PCS's that marginally miss their target the effect of the Escalator will be minimal, for a PCS making no effort to achieve their collection target per stream the effect of the Escalator would be to double the Compliance Fee.
- 2.1.4 In this 2015 Proposal, PCSs that use the Compliance Fee mechanism for any stream for more than 10% of their target for that stream will be required to contribute to the administrative costs of operating the 2015 Compliance Fee mechanism. For each such stream the PCS concerned will be required to pay an administration fee of £2000 up to a maximum of £5000 in total across all streams. This will provide a further incentive to PCSs to seek to achieve compliance by collection rather than using the Compliance Fee mechanism. It also means that the PCS users of the compliance fee methodology will pay a contribution towards the costs of the administration and management of the mechanism, which will reduce the level of those costs that are charged against the compliance fees paid.

Introducing this administration fee in a simple and transparent form, only at the point that a PCS is more than 10% short of their collection target in any stream and also setting a maximum cap for any PCS on the total amount of administration fees across all streams has the objective of ensuring that it is a proportionate measure in further encouraging PCSs to take all reasonable steps to meet their collection targets without recourse to the compliance fee. In their 2014 report, FTI Consulting observed that falling 10% short could be due to factors outside the control of a PCS like the target being inadvertently set inappropriately high (paragraph 7.34 in Appendix 1).

- 2.1.5 The combination of the Escalator mechanism, the proposed administration fee and other factors described in this Proposal, including a PCS's own administrative and audit costs of using the compliance fee, are designed to ensure that it will be more

cost effective for a PCS to take all reasonable steps to meet their collection targets without recourse to the compliance fee.

2.1.6 A standard template form will be used for collecting data from PCSs that choose to participate in the Compliance Fee mechanism. The template will be the same as the one that was used successfully in the 2014 Compliance Fee mechanism, with some minor changes made by the Administrator in response to questions of clarification from PCSs that used it. Data submissions will be subject to validation for accuracy by the Administrator. Only the costs of those PCS's that choose to use a compliance fee for a stream will be used in the calculation unless certain exceptional circumstances apply.

2.1.7 A special case will apply for positive value streams of WEEE because the volume of such streams is often collected by non-producer organisations due to the incentive of the net value of the materials. If the output from the fee calculation process results in a zero cost or a positive value at the time the compliance fees are calculated by the Administrator then the compliance fee for the stream(s) concerned will be set at zero; in no circumstances should there be a negative compliance fee. If in future compliance periods such stream(s) were to become a negative value stream, then a compliance fee would be applied.

2.2 **Independent Administrator of the Compliance Fee mechanism**

2.2.1 Mazars LLP have been selected to be the Administrator of the Compliance Fee mechanism if BIS select the JTA 2015 Proposal. Mazars is a UK top 10 accountancy firm with extensive relevant experience, which is outlined in section 4 of this Proposal. They have demonstrated their ability to administer the Compliance Fee mechanism through operating it successfully for the 2014 Compliance Period. This experience and knowledge will ensure an effective and cost efficient process in 2015.

2.2.2 As the JTA is an unincorporated body, a legal entity, Joint Trade Associations (Contracts) Ltd (JTAC), was formed for the purpose of managing the contract with the independent Administrator. JTAC is a not-for-profit company limited by guarantee and its members are three JTA trade association members with significant household WEEE obligations. They are; AMDEA, LIA and TechUK.

2.2.3 In the event that BIS do not accept the JTA Proposal, the full Administrator 2015 contract will not be activated and any costs incurred in the preparation work by JTAC directly or through the Administrator will be paid by JTAC.

2.2.4 The Administrator will be the contact point for PCSs that wish to use the Compliance Fee. It will receive and validate PCS cost data used to calculate the Fee and will advise PCSs of the resulting Fees, and administration fees where they apply, that they need to pay. The Administrator will receive payments into a dedicated client bank account, which they manage independently. The 2015 client bank account will be separate to the 2014 client bank account. Once payments have been received the Administrator will issue to the PCS concerned a Compliance Fee Payment Certificate (CFPC), for the PCS to use in making their own Declaration of Compliance.

For the 2014 Compliance Fee mechanism the Administrator confirmed everything worked as planned and to timetable using this process.

- 2.2.5 The Administrator will keep strictly confidential all data they receive and handle, as demonstrated through the 2014 Compliance Fee mechanism.

2.3 **Disbursements of Compliance Fee Funds**

- 2.3.1 Compliance fee payments by PCSs will form a 2015 Compliance Fee Fund, managed by the Administrator, via a separate client bank account.

- 2.3.2 The administrative costs of operating the mechanism (less any administration fees paid) will be charged against the Fund and all the remaining funds will be available for disbursement to organisations, including Local Authorities, in accordance with the BIS July 2015 Guidance i.e. for the improvement of collection, recycling and re-use rates for household WEEE and or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive.

For the 2015 Compliance Fee mechanism there will be added benefits in respect of costs as there will be no setting-up costs (the operating systems from the 2014 compliance period will be used) and some of the costs of operating the mechanism are expected to be charged to PCSs that use the mechanism through the administration fees.

- 2.3.3 Our proposal sets out a process for organisations, including Local Authorities to make applications for funding. This includes the establishment of an independent Judging Panel representing various stakeholders. Criteria for applications are in line with BIS July 2015 Guidance. Decisions on approving applications and the level of funds applied to each will be made by the Judging Panel.
- 2.3.4 The Administrator will be responsible for carrying out reviews of completed projects to validate that funds were spent in line with the intended use approved by the Judging Panel.
- 2.3.5 This JTA 2015 Proposal sets out a standalone disbursement process. For the 2014 Compliance Fee disbursement process, with the support of BIS, the JTA and the DTS (Distributor Take-back Scheme) cooperated to create a single call for proposals as they both managed funds with very similar criteria for allocation. In the event that the DTS has funds available for disbursement, with similar criteria, during the time that the 2015 Compliance Fee funds are being disbursed the JTA would again be pleased to participate in coordination discussions between the Schemes in the interests of reducing administration work for applicant organisations.

2.4 **Governance and Confidentiality**

- 2.4.1 The 2015 compliance fee mechanism will be operated by the Administrator on an independent, professional basis with high levels of integrity and open to all relevant parties to use, in the same way that the 2014 compliance fee mechanism has been shown to be operated.
- 2.4.2 Whilst the JTA is the proposer of this mechanism, it has ensured that neither the JTA, nor JTAC, nor any of their members can benefit financially from the scheme or access any confidential data within it or influence any awarding of funds/grants from it. The mechanism is independent but JTAC will manage the performance of the administrator via a contract and regular reporting.
- 2.4.3 In the event that PCSs do not use the compliance fee at all (or use it very little) any residual costs of the administrator that are not covered by compliance fee income will be met by JTAC.

In the event that the amount of funds available for disbursement after costs have been deducted is too low to justify a call for funding applications, the Administrator and JTAC will discuss and agree with BIS the best way to use the funds that are available to further improve the working of the UK WEEE system in line with the BIS July 2015 Guidance.

3. **JTA proposal for the WEEE Compliance Fee for the 2015 Compliance Period**

The JTA proposal for a compliance fee mechanism under Reg 76 of the WEEE Regulations is set out below. Additional details are contained in various appendices and cross-referenced in the proposal:

3.1 **Compliance Fee Methodology and calculation**

The calculation of Compliance Fees, per collection stream, is based on a methodology and formula developed and recommended by FTI Consulting (FTI), a leading group of professional economists for the JTA 2014 Compliance Fee Proposal. The JTA 2015 Compliance Fee Proposal will use the same methodology and formula, which has been proven to work effectively and has been reviewed and endorsed by an independent study by a separate firm of leading economics consultants, Frontier Economics Ltd (Frontier), whose report is attached as Appendix 2.

FTI was selected to advise on the 2014 compliance fee methodology, having significant experience of using economic and financial analysis, and econometrics to assess complex pricing and valuation issues that occur in regulated industries. FTI have confirmed their support for their 2014 report forming part of this JTA 2015 Proposal and it is attached as **Appendix 1**. This sets out their analysis, their assessment of a number of alternatives and their recommended methodology and Fee calculation formula, together with their supporting rationale. The main steps of their recommended methodology and Fee calculation formula are contained in this Proposal and cross-referenced back to the full report.

Frontier is an international economics consultancy and has extensive experience of carrying out economic and financial studies, including knowledge of the UK WEEE market. Their review of the 2014 compliance fee mechanism concluded that the methodology, including the form of escalator, employed for the 2014 Compliance Fee mechanism had “worked well and there would be no objective economic benefit from changing it”. They also emphasised that “retaining a compliance fee was essential in achieving the beneficial economic outcomes from the WEEE Regulations 2013”. See Appendix 2 for their full report.

3.2 **Compliance Fee Administrator (Administrator)**

JTAC carried out a selection process for the role of Independent Compliance Fee Administrator, when preparing its Proposal to BIS for a 2014 Compliance Fee. That selection process was based on seeking robust, professional offers for such services at competitive prices. From a number of potential providers JTAC appointed Mazars LLP, a leading UK and international accountancy firm, with relevant experience and credibility/integrity in terms of financial probity, providing accounting/administration services and acting independently.

Mazars have carried out the role of independent Administrator to the 2014 Compliance Fee mechanism in accordance with their contract with JTAC. They have

demonstrated their professionalism and integrity in executing their tasks in respect of the 2014 mechanism, which is not completed yet as the disbursement process continues through to the end of December 2016.

If their Proposal is accepted by the Secretary of State for BIS, the JTA propose to appoint Mazars as the Administrator for the 2015 Compliance Fee mechanism without carrying out a further selection process for the following reasons:

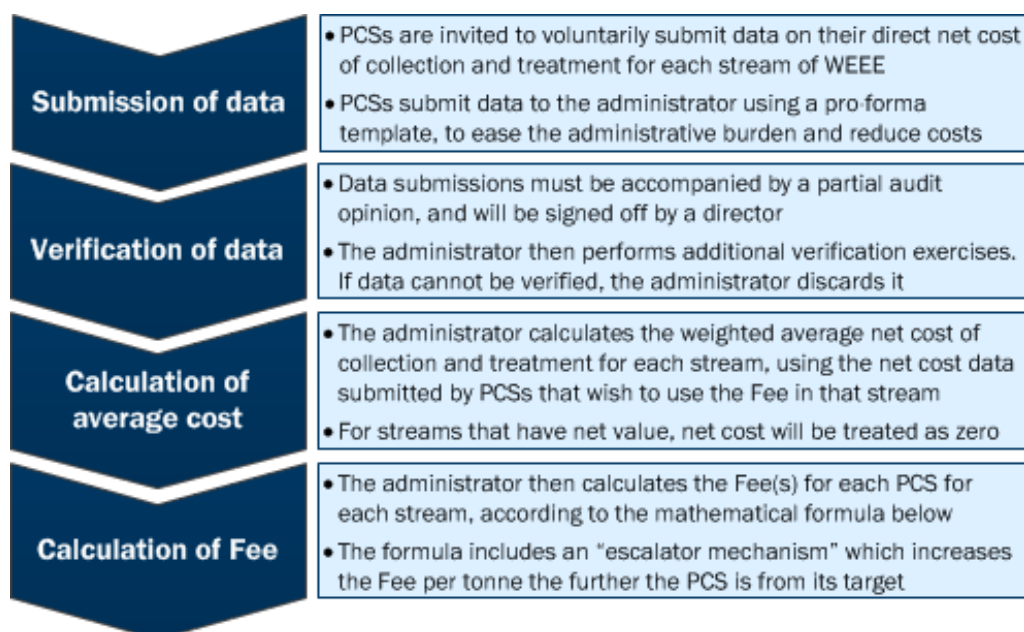
- The competitive selection process for the 2014 Compliance Fee mechanism Administrator was only carried out during the summer of 2014 and that first compliance period cycle will not be completed until December 2016 when Local Authorities report on the effectiveness of the investment in their local WEEE improvement projects.
- Mazars have proven their capabilities to date and as a result have a track record as well as resources and processes in place to deliver the operational requirements for the 2015 Compliance Fee mechanism.
- Mazars have provided a quotation for costs to cover the 2015 compliance period, which reflects their insight and experience gained from the 2014 process. As a result, overall costs are projected to be lower than for the 2014 compliance period. The reduction in costs consists of not only the absence of set up costs but also increased operational efficiency. Overall therefore this represents a cost effective solution for a professional independent Administrator service operated with high levels of integrity with regard to handling commercially sensitive data.

A fuller report on the profile, experience and qualifications of Mazars LLP in respect of the Administrator role is in Section 4 of this Proposal.

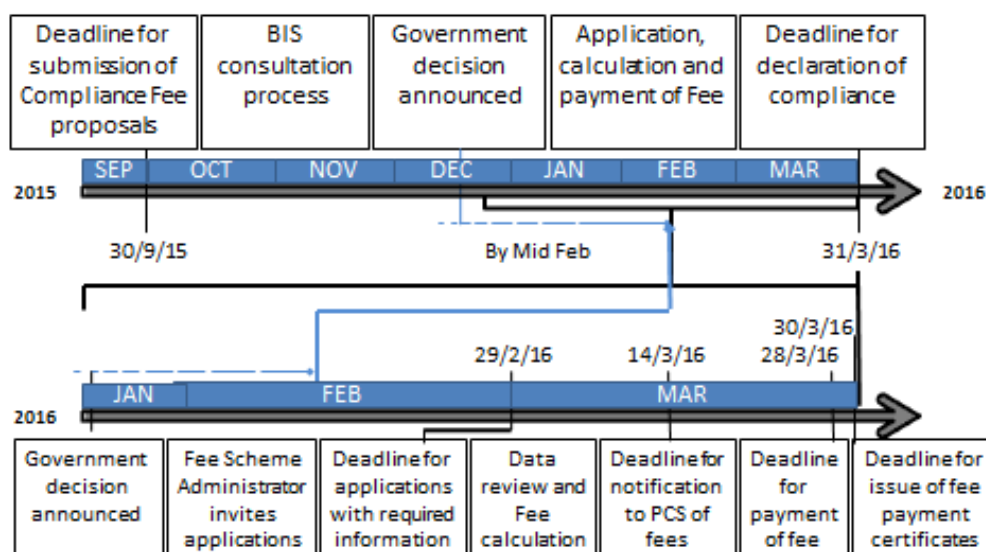
3.3 Calculation and payment of Compliance Fees

3.3.1 Summary flow diagram and timeline

The flow diagram for the 2015 mechanism is the same as that used for the 2014 mechanism and a more detailed description of the process can be found in the FTI report in Appendix 1.



Compliance Fee Timeline Applying to use the fee



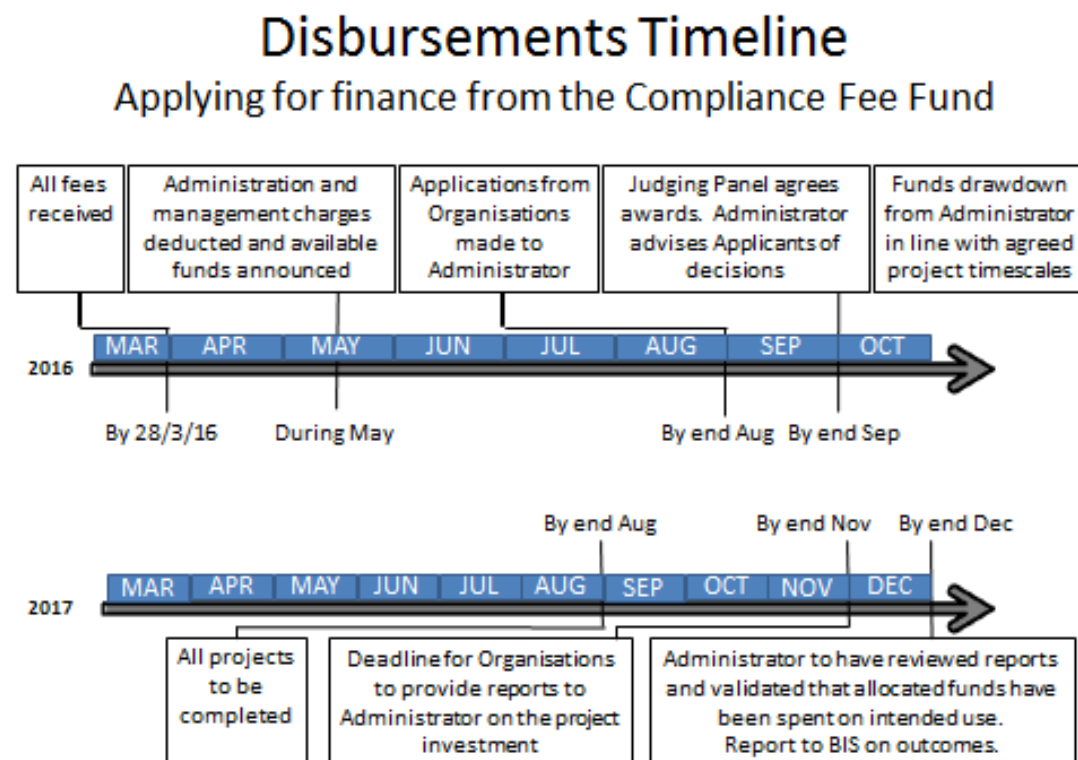
3.3.2 Process for the calculation and payment of Compliance Fee

- 3.3.2.1 Immediately following any announcement by BIS introducing a Compliance Fee mechanism for 2015, and if the JTA Proposal is selected, the Administrator will contact all PCSs and ask them to confirm if they wish to use the Compliance Fee mechanism and, if they do, to sign to confirm their acceptance of the Terms and Conditions covering such matters as confidentiality and compliance with the requirements of the mechanism, as set by the Secretary of State. The terms and conditions used in the 2014 process will be extended to require PCSs to pay an administration fee of £2000 in respect of any stream where they are more than 10% short of their target, up to a maximum of £5000 for any PCS.
- 3.3.2.2 A PCS's decision to use the Compliance Fee must be advised to the Administrator promptly, and at the latest by 29th February 2016, to allow time for calculations and payment of any resulting fees. PCSs will know by the end of January 2016 whether they are short of evidence for any collection streams and therefore need to use a Compliance Fee. A non-response will be assumed by the Administrator to be a decision that the PCS does not wish to use the Compliance Fee mechanism (the Administrator has no knowledge of PCSs' individual targets or levels of collection achieved at this point).
- 3.3.2.3 The PCS submits data for each stream for which they need to use the Compliance Fee mechanism to the Administrator by 29th February 2016, using the pro forma template referred to in 3.3.1, which must be signed by a Director, together with an independent review of the data, carried out by a registered auditor on a limited assurance basis. Such a review is naturally proportionate to the size of the PCS and the amount of tonnes and streams for which they wish to use the compliance fee. There are approximately 7000 firms registered as auditors, which provides a wide range of choice for PCSs, in addition to the option of using their financial accounts auditor.
- 3.3.2.4 The Administrator carries out an appropriate level of verification on the data submitted by the PCS and clarifies any lack of clarity or inconsistencies with the PCS.
- 3.3.2.5 The Administrator then calculates the Compliance Fee per stream on a weighted average of direct collection costs, using only the data provided by those PCSs who need to use the Compliance Fee. The calculation is based on the formula developed and recommended by FTI Consulting, section 7, paragraphs 7 - 10. The calculation itself is described in paragraphs 24 to 29 of section 7 of the FTI report in Appendix 1. The resulting fee per collection stream is then adjusted by the escalator mechanism for each PCS that needs to use it (see section 7, paragraphs 30 - 38 of the FTI report in Appendix 1) by 14th March 2016. At the same time, any administration fee will be advised to PCSs where their shortfall for any stream is greater than 10% of their target for that stream up to a maximum of £5000 for a PCS across all streams.
- 3.3.2.6 PCSs pay the Compliance Fee and any administration fees into the dedicated Compliance Fee client bank account as soon as possible after being advised by the Administrator of the fee(s) to be paid and at the very latest in sufficient time for funds

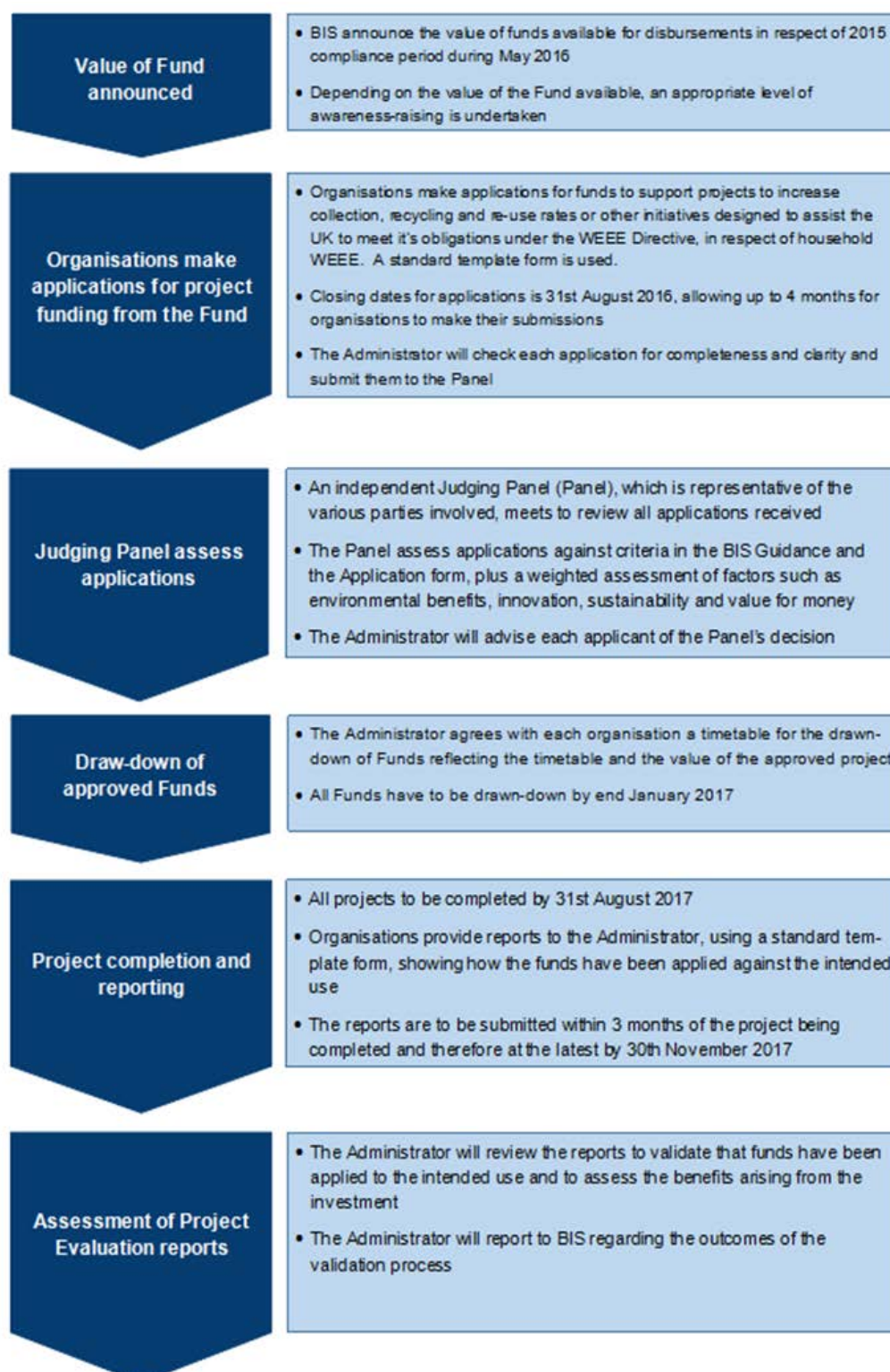
to clear by 28th March 2016. Once funds are cleared and in the client bank account, the Administrator will issue a Compliance Fee Payment Certificate (CFPC) to the PCS. This will be done as soon as possible after the funds have been cleared and at the latest by 30th March 2016. The CFPC will confirm the information provided by the PCS (i.e. PCS target, actual evidence and resulting evidence gap in tonnes, per collection stream), and confirm the compliance fee and administration fee(s) have been paid into the Compliance Fee Fund, in respect of the evidence gap per stream, but will not show the value of the fees paid.

- 3.3.2.7 The Administrator will send a summary to each Environment Agency concerned, confirming which PCSs have used the Compliance Fee for which streams and showing, for those streams, the PCS target tonnes and the tonnes for which a compliance fee has been paid.
- 3.3.2.8 In May 2016 the Administrator will confirm to BIS and JTAC, the estimated amount of Compliance Fee funds available for disbursement to support WEEE Improvement Projects as set out in the BIS Guidance. In estimating the funds expected to be available the Administrator will assess the total administrative costs of the Compliance Fee mechanism, offset by any administration fees paid by PCSs. At this time in the process an estimate is made of all the administrative costs to be covered through to the close of the 2015 mechanism at the end of December 2017. When the 2015 compliance fee mechanism is completed the Administrator will confirm to BIS and JTAC any residual funds available for disbursement.

3.4 Disbursements of Funds



3.4.1 Summary process for Disbursements from the Compliance Fee Fund



A more detailed description of the process can be found in **Appendix 3** "JTA detailed proposal for disbursements of funds collected".

- 3.4.1.1 The value of funds available for disbursement from compliance fee payments to support WEEE Improvement projects that meet the criteria set out in the BIS 2015 Guidance will be advised to all relevant organisations, including Local Authorities, by BIS
- 3.4.1.2 Organisations will then be able to make applications for such funds, using a standard template (see **Appendix 5**) to support projects that meet the criteria set out in the BIS July 2015 Guidance document; i.e. increases in collection rates, recycling and legitimate re-use or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive. The disbursements process has been kept as simple as possible in order to reduce administration work, with submission via email, albeit the opportunity to develop IT solutions in the longer term is there. The closing date for applications is 31st August 2016 subject to any changes in the timetable agreed with BIS.
- 3.4.1.3 A Judging Panel representative of the relevant stakeholders will assess all applications against the criteria set out in the BIS Guidance plus a weighted assessment of factors such as environmental benefits, innovation, sustainability and value for money. Funds will be awarded taking into account the level of Compliance Fee Funds available. Organisations will be advised of the outcome regarding their application during September and early October 2016.
- 3.4.1.4 Draw-down of funds will be agreed by the Administrator with successful organisations, together with expected completion dates for the projects. For most projects payments will be made in full ahead of the start date of the project. High value projects that have been approved will receive 90% of the funds ahead of the start date and the balance on submission of the final report.
- 3.4.1.5 Successful applicants will be required to provide a written report within three months of the completion of the project.
- 3.4.1.6 The Administrator will carry out a desk review of the report and where appropriate discuss it with the organisation concerned to validate the expenditure of the funds against the intended use. The Administrator will report to BIS on the outcomes of the validation process and advise of any concerns.
- 3.4.1.7 In the event that, after the judging process and allocation of funds against the applications received, any residual money remained in the Compliance Fee Fund, the Administrator will agree with BIS how those funds are to be used. Some options are outlined in the detailed process in **Appendix 3**
- 3.4.1.8 This JTA 2015 Proposal sets out a standalone disbursement process. For the 2014 Compliance Fee disbursement process, with the support of BIS, the JTA and the DTS (Distributor Take-back Scheme) cooperated to create a single call for proposals as they both managed funds with very similar criteria for allocation. In the event that the DTS has funds available for disbursement, with similar criteria, during the time that the 2015 Compliance Fee funds are being disbursed the JTA would again be pleased

to participate in coordination discussions between the Schemes in the interests of reducing administration work for applicant organisations.

3.5 Governance of the JTA Proposal for a Compliance Fee Mechanism:

The broad principles of the mechanism are as follows:

- 3.5.1 To ensure that the Compliance Fee mechanism put forward in this JTA proposal is operated on an independent, professional basis, with high levels of integrity throughout, is open to all relevant parties to use as required and that there are no conflicts of interest.
- 3.5.2 Whilst the JTA is the Proposer of this Compliance Fee mechanism it has ensured that the process is designed in such a way that neither the JTA, JTAC, nor any of their members can benefit financially from the scheme or access any confidential information within it or influence any awarding of funds/grants from it (other than as one of the judging panel if so appointed by BIS).

Fuller details of the Governance model are in Section 6 of this Proposal.

3.6 How JTA 2015 Proposal matches against the assessment criteria set out in the BIS 2015 Guidance for submitting 2015 Compliance Fee Proposals.

See Appendix 4 for a detailed comparison.

4. Our chosen administrator

4.1 Background

In considering for the JTA 2014 Compliance Fee Proposal how the administrator services would be provided, the options studied were; the use of in-house resources from a JTA or JTAC member, recruitment of staff by JTAC, and outsourcing the key administrative functions.

4.2 Decision to outsource

It was decided to outsource the administrator role for the following reasons;

- Ensure confidentiality of commercial information
- Ensure appropriate experience and knowledge available
- Ability to innovate and develop the service depending on uptake
- Provide continuity in team and processes
- Provide adequate and flexible level of resource to respond to variable workload
- Value for money

4.3 Evaluation process

For the 2014 Compliance Fee Proposal JTAC selected a number of potential organisations to provide a proposal to deliver Compliance Fee services, including Environmental Consultants, Accountancy firms and Trade Associations/outourcing companies. Of these, three were shortlisted for final consideration by JTAC. The decision of JTAC was to appoint Mazars LLP, a Top 10 UK Accountancy firm, as Compliance Fee Administrator to support the JTA Proposal. JTAC have reviewed this process and concluded that it was and still is the most valid selection process and for the reasons given in paragraph 3.2. propose to appoint Mazars LLP as the Administrator to the 2015 Compliance Fee, if the JTA Proposal is selected by the Secretary of State for BIS.

4.4 Mazars' background

Mazars is an international, integrated and independent organisation, specialising in audit, advisory, accounting and tax services. The Group operates in 73 countries and draws on the expertise of 15,000 professionals to assist major international groups, SMEs, private investors and public bodies at every stage in their development. In the UK, Mazars has 130 partners and over 1,600 staff serving clients from 20 offices, and is ranked as the ninth largest accountancy firm nationally.

The core values of Mazars define how the firm operates. These values are; integrity, independence, respect, responsibility, diversity and continuity. They translate into a clear obligation to provide independent advice of the highest quality.

In understanding that no two clients are the same, Mazars is practiced in developing and implementing customized solutions. Combining expertise in outsourcing, working with 'public interest' entities and clients across many industries, Mazars has the capacity to deliver each element of the administrator role to the highest standards.

4.5 Key areas of Mazars' proposal

4.5.1 Segregation of duties and conflicts of interest

Mazars will operate a client account on behalf of JTAC, which will be used to collect funds from the relevant PCS organizations. This account is held separately from any other accounts, including the 2014 Compliance Fee client account. (NB: as part of the strict confidentiality conditions regarding payment of PCS compliance fees neither JTA or JTAC or any of their members has any access to the client bank account or to information in it). Should conflicts of interest be identified, Mazars has the scale and resources to mitigate such conflicts through the provision of entirely separate engagement teams.

4.5.2 Industry knowledge

Mazars has experience of working with companies in the WEEE sector and has familiarity with the relevant WEEE legislation. They also have substantial experience in the not-for-profit sector and working with government agencies. This experience combined with their knowledge of the Compliance Fee process will help to deliver a highly cost effective and commercially confidential solution.

4.5.3 Flexible solutions

The organisation has the ability to be flexible in the services it provides and can tailor these to the relevant take up of the scheme in any compliance period for which it was appointed as the Administrator. Currently a straightforward off-line IT led solution has been implemented because that has been most appropriate. A portal solution has been reviewed but not considered to be best value for money at present.

4.5.4 IT systems & security

Mazars considers the information it holds as of the utmost importance. It is essential that this information is protected from a wide range of threats in order to preserve confidentiality and integrity. Mazars protects its information by establishing and maintaining an information management system following the best practice controls set out in ISO/IEC 27001.

Within this context, Mazars has in place controls over both virtual and physical security including disaster recovery plans, automatic data back-ups and power outages. With regard to access controls, each individual at the firm has separate log-ins, which are enforced with regular updating of passwords and on-going training regarding information security. Access to networks and data is restricted based on individual credentials and mobile working is supported by full encryption.

From an operational perspective, Mazars has extensive capabilities to develop technology driven solutions either through intelligent use of software or the development of technology, such as portals, to the benefits of its clients. This could provide innovation in the way the compliance fee service is delivered both to the PCSs and the local authorities when applying for grants.

4.6 Capacity

The firm has 130 partners and over 1,600 staff in the UK and offices across the country. This provides the capacity to deal with the possible fluctuations in demand, support field visits to validate project spending if needed and generally respond to issues that might arise.

4.7 Governance

Mazars operates in a regulated environment and is principally regulated by the ICAEW. The team members chosen for the assignment are members of their professional body and are bound by its code of conduct.

The Administrator services will be led by a Partner, who will be involved in the overseeing of all aspects of the administration of the 2015 Compliance Fee mechanism. A manager is allocated to manage the process and system and ensure deadlines are met and that the process is running smoothly. There will also be a team of less senior staff members to work on the processing of transactions and producing the reports for review as required.

4.8 Value for money

The services provided by the Administrator comprise the following:

- Communicating with PCS's about the 2015 compliance fee mechanism, providing support to PCS's in using it; calculating fees; collecting payments, issuing compliance fee payment certificates and advising the environment agencies concerned, of appropriate information.
- Receiving payments of fees, holding those in a dedicated client bank account, making approved payments from that account and managing the bank account through to when it is finally closed i.e. when the Compliance Fee mechanism is finally complete with all funds disbursed and accounted for.
- To receive, verify and present to a judging panel all applications received for funds from the Compliance Fee Fund. To disburse funds approved by the Judging Panel to the organisations concerned and in due course to receive back from those organisations Project Evaluation reports on the effectiveness of the funds invested against the original purpose.
- To maintain through to the final close of the 2015 compliance fee fund, full accounting records of all transactions including VAT returns and annual

accounts information. To provide management reports to JTAC on a regular basis without disclosing any confidential or commercially sensitive information.

In respect of these services Mazars provided a quote for costs to cover the 2015 compliance period, which reflects their insight and experience gained from the 2014 process. As a result, overall costs are projected to be lower than for the 2014 compliance period, The reduction in costs consists of not only the absence of set up costs but also increased operational efficiency. The Mazars offer is commercially confidential and therefore is not included in this JTA Proposal.

5. **Administration and management costs for the 2015 Compliance Fee mechanism:**

Providing an accurate estimate of costs for the Compliance Fee mechanism in respect of any particular compliance year is not practical because there are a number of unknowns that will influence the costs, some examples of which are:

The number of PCS's that choose to use the mechanism and the number of streams they wish to use it for.

The number of organisations that submit applications for funding and the number that are approved by the Judging Panel for payment.

The time it takes to complete the whole process from the time that BIS announce whether there will be compliance fee for a particular year through to when all the improvement projects that are funded are completed and report their results.

Costs that would be charged against the Compliance Fee Fund for any year are solely 3rd party costs incurred by JTAC, most of which are the costs for the Administrator services. Costs related to support provided by JTA participants are borne by those participants.

A significant part of the costs for the Administrator services are fixed e.g. managing the client bank account and maintaining full accounting records, including VAT returns and providing details for annual accounts.

In this 2015 Compliance Fee Proposal JTA propose that those PCS's that need and choose to pay a compliance fee in respect of greater than 10% of their target for any stream will be charged an administration fee of £2000 per stream up to a maximum of £5000 in total for any PCS. These administration fees will be offset against the administration costs, resulting in a greater proportion of the compliance fees paid being made available to support WEEE improvement projects. In the event that the administration fees charged to PCS's are greater than the total administration costs of the 2015 Compliance Fee mechanism the surplus will be added to the funds made available for WEEE improvement projects.

It is expected therefore that the net costs of administering and managing the 2015 compliance fee, which are charged against the compliance fees paid, will represent good value for money for a professional service with high levels of integrity in handling commercially sensitive and confidential information and data.

In the event that there is no, or very little, usage of the 2015 compliance fee mechanism, then any costs of administering and managing the scheme not covered by compliance fees paid will be met by JTAC.

6. Governance

Key points of the governance of the system, all of which have been shown to work effectively in respect of the 2014 Compliance Fee mechanism, are:

- 6.1 This JTA proposal is designed to ensure that the process is open and transparent; accessible on an equal basis to all relevant organisations that wish to use it; operated on an independent, professional basis with high levels of integrity and with no involvement by the JTA in its administration.
- 6.2 The JTA has initiated the establishment of JTAC as the legal entity to manage the independent Compliance Fee Administrator. The independent Administrator is responsible for the operation of the Compliance Fee process in the JTA proposal. The JTA will continue to provide resource and expertise to JTAC, and also to the Administrator, regarding the content and operation of the WEEE Regulations but will not be involved in the management and operation of JTAC or the Administrator contract.
- 6.3 JTAC is a legal entity, formed by three Trade Association members of the JTA with significant household EEE/WEEE obligations. It is a not-for-profit company, limited by guarantee, with no shareholdings and its Constitution prohibits any distribution of funds to its members. It has a Board of Directors, comprising a senior representative from each of the Trade Association members, who are responsible for the proper running of the Company
- 6.4 JTAC has selected an independent Administrator of the Compliance Fee system, responsible for the calculation of compliance fees and the management of any Compliance Fee funds through a dedicated client bank account. The selected Administrator (Mazars) is a UK Top 10 Accounting firm, experienced in accounting, auditing, managing client bank accounts and managing commercially confidential information in an impartial and independent manner. They are successfully operating as Administrator for the 2014 Compliance Fee mechanism.
- 6.5 JTAC will manage the performance of the Administrator of the system, without any access to confidential, commercially sensitive, information provided by either PCS's, Local Authorities or other organisations to the Administrator. For further transparency, an appropriate level of confidential oversight reporting by the Administrator of the Compliance Fee system directly to BIS can also be provided, if required by BIS.
- 6.6 The contract for the Administrator services will be between JTAC and the appointed Compliance Fee Administrator. Responsibility for the effective and efficient performance of the Administrator is placed with the Board of Directors of JTAC on the one hand and a Partner of the Compliance Fee Administrator firm on the other hand. The contract will specify the services to be provided and the Key Performance Indicators (KPIs) required for those services, which will be monitored through regular reporting and meetings. The contract will specify the requirement for confidentiality regarding any commercially sensitive market information in order to ensure no breach

of competition law. In this respect the Administrator is required to keep all such information strictly to specified staff members within their own organisation and not to disclose any such information outside their own organisation, including not to JTAC or JTAC members.

- 6.7 The Compliance Fee process is open to any organisation entitled to and wishing to use it i.e. all PCS's wishing to make use of the Compliance Fee mechanism; all organisations that meet the criteria, wishing to apply for grants from any Compliance Fee funds that are available.
- 6.8 PCS's using the mechanism and Organisations applying for funds will both be required to use the system in accordance with the agreed procedures, including timing of any decisions or applications.
- 6.9 The Judging Panel for assessing applications from Organisations applying for funds will be an independent body representative of the various interests involved. The Compliance Fee Administrator will provide secretarial support to the panel as required and execute the decisions made but will not contribute to the decision-making of the panel.
- 6.10 A PCS that decides to use the Compliance Fee mechanism will be required to submit accurate information signed off by a Director and backed up with an independent review. (see 3.3.2.3).
- 6.11 Approved applications for project funding from the Compliance Fee funds will be subject to post-investment validation by the Administrator to ensure that the funds were applied to the intended use.
- 6.12 In the event that the Compliance Fee option does not need to be used by PCS's or is used very little, resulting in any uncovered costs of managing and administering the Compliance Fee mechanism, those uncovered costs will be paid by JTAC.

7. List of Appendices

Appendix 1	FTI Report on methodology for the calculation of a Compliance Fee
Appendix 2	Frontier Economics report on the operation of the 2014 compliance fee mechanism and potential enhancements.
Appendix 3	JTA detailed proposal for disbursements of funds collected
Appendix 4	How JTA 2015 Proposal matches against the assessment criteria set out in the BIS 2015 Guidance for submitting 2015 Compliance Fee Proposals.
Appendix 5	Draft Application form for Disbursements from the Compliance Fee Fund
Appendix 6	Summary of main changes in the JTA 2015 Compliance Fee Proposal compared to the JTA 2014 Compliance Fee Proposal



**Proposal to the Department of Business
Innovation and Skills**

**Operation of a WEEE Compliance Fee for the
2015 Compliance period**

Appendix 1

September 2015



September | 2014

WEEE compliance fee methodology

Proposed methodology for the calculation of
a compliance fee in relation to the Waste
Electronic and Electrical Equipment
Regulations 2013

CRITICAL THINKING AT THE CRITICAL TIME™

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Glossary

Avoidable cost	Avoidable, or separable, costs are those that could be eliminated by reducing the amount of WEEE collected by a PCS
AATF	Approved Authorised Treatment Facility
BIS	Department for Business, Innovation & Skills
DCF	Designated Collection Facility
Direct cost	Direct, or variable, costs are those that change in proportion to the amount of WEEE directly collected by the PCS
Direct collections	Those collections under the direct control of the PCS, where the PCS has been contracted to undertake and directly manage the collection and treatment activity and can choose the collection and treatment providers.
EEE	Electronic and Electrical Equipment
Escalator	The mechanism in the proposed methodology that incentivises compliance by collection
Fee	The compliance fee under Regulation 76 of the WEEE Regulations
Incremental cost	Incremental, or marginal, costs are those additional costs that arise for a PCS as further WEEE is collected
JTA	Joint Trade Associations Group (Producer Responsibility)
LHAs	Large household appliances
Net cost	All direct costs less revenues associated with collection and treatment of WEEE, where direct costs are greater than revenues

Over-collector	An individual PCS that collects more WEEE than its obligation amount, independent of total WEEE collections in the UK
Overhead cost	Overhead, or indirect, costs are those that do not change in proportion to the amount of WEEE directly collected by the PCS
PCS	Producer Compliance Scheme
Settlement Centre	An online tool managed by the Environment Agency through which PCSs accept evidence
Under-collector	An individual PCS that collects less WEEE than its obligation amount, independent of total WEEE collections in the UK
WEEE	Waste Electronic and Electrical Equipment
WEEE Regulations	Waste Electronic and Electrical Equipment Regulations 2013

1. Introduction

Introduction

- 1.1 This report has been prepared by FTI Consulting for the JTA. We have been asked to identify and propose a methodology for the calculation of the compliance fee (the “Fee”) in accordance with Regulation 76 of the Waste Electrical and Electronic Equipment Regulations 2013 (as amended) for the compliance year ending 31 December 2014. We set out our instructions in more detail below. Our relevant experience is summarised in Appendix 1.
- 1.2 We understand that this report will form part of the JTA’s submission to the Department for Business, Innovation & Skills (“BIS”).

Background

- 1.3 In the paragraphs below, we summarise aspects of the background to the WEEE Regulations that appear to us to be relevant to our instructions.

Previous WEEE regulations

- 1.4 The previous WEEE Regulations were introduced in 2007, in response to EU Directive 2002/96/EU. Under these regulations, producers of Electronic and Electrical Equipment (“EEE”) are required to finance the collection, treatment, recovery and environmentally-sound disposal of WEEE. Producers are required to join a body responsible for organising the handling of WEEE on behalf of its members, referred to as a Producer Compliance Scheme (“PCS”). PCSs collect evidence notes showing the amount of WEEE collection and treatment they have financed.
- 1.5 Under the previous regulations, WEEE was split into thirteen categories, and each PCS was responsible for financing the treatment of a percentage of household WEEE in each category. Each PCS’s percentages were set by reference to the EEE intended for private households that was put on the UK market by its members in the year. As a result, no PCS knew its obligations until the end of the year.

1.6 As each PCS did not know exactly what its obligation would be, it was inevitable that at the end of each compliance year some PCSs had a surplus of evidence notes and some had a shortage. There was a settlement period during which PCSs could buy and sell evidence notes, through a settlement centre run by BIS. These regulations meant that local authorities were always able to arrange for a PCS to organise the collection and treatment of WEEE, because all PCSs were certain that the evidence would either count towards their own target, or they would be able to sell the evidence to another PCS. Historically, some PCSs were consistent “over-collectors”, and others were consistent “under-collectors”.

1.7 This mechanism had the following effects¹:

- (1) demand for evidence notes was inelastic, due to high penalties for non-compliance. Under-collecting PCSs were subject to excessive charging for evidence notes by over-collecting PCSs. As there was no alternative method of compliance, there was no clear ceiling on the price of evidence notes;
- (2) if any PCS had a surplus of evidence notes at the end of the year, it was guaranteed that another PCS would face a shortage. As above, PCSs with a shortage could be forced to pay extremely high prices for evidence notes on the secondary market;
- (3) there was no incentive for a PCS with a surplus to attract new producers at lower fees;
- (3) similarly, there was limited incentive for waste treatment facilities to operate efficiently and keep costs down, as they were guaranteed to sell all their evidence notes at prices that could bear little or no relation to the true cost of treatment; and
- (4) for certain streams, PCSs could profit from both the collection of materials and the sale of evidence notes. There was consequently an additional incentive for PCSs to collect more than their own individual target of such WEEE streams to maximise their profits.

¹ In October 2013 BIS published an Impact Assessment discussing proposed changes to the WEEE Regulations. Section 3 of this report includes a more detailed discussion of the failures of the previous WEEE Regulations.

The 2013 WEEE Regulations

- 1.8 In December 2013, following a period of consultation by BIS, the UK Government passed the 2013 WEEE Regulations. The WEEE Regulations were passed in response to EU Directive 2012/19/EU on WEEE, which recast Directive 2002/96/EU, and they came into effect in January 2014.
- 1.9 Under the 2013 WEEE Regulations, the number of WEEE categories has been increased to fourteen. Collection targets for household WEEE are now given in 6 collection streams, into which the fourteen categories are allocated. Each PCS is given a collection target for each collection stream for each compliance period (1 January to 31 December). This target is determined based on the amount of EEE in each category that was put on the market by the scheme's members in the previous year, and other factors determined by BIS.

WEEE compliance fee

- 1.10 Regulation 28 of the WEEE Regulations sets out the responsibilities of PCSs for financing the handling of household WEEE. Under Regulation 33, any PCS which does not achieve compliance by collecting and treating WEEE in line with its members' obligations is able instead to pay a compliance fee in respect of the shortfall. This prevents the enforced purchase of WEEE evidence notes by PCSs through the secondary market as the only means of achieving compliance. It also works in the event that the UK, despite collecting and treating all WEEE available, falls short of its overall PCS aggregated target, by ensuring producers still fulfil their financing obligation.
- 1.11 In each compliance period, the Secretary of State may approve a methodology for the calculation of the Fee. Proposals for a methodology must be submitted to the Secretary of State by 30 September in the compliance period in which the methodology will apply, as detailed in Regulation 76.

Our instructions

- 1.12 FTI Consulting has been instructed by the JTA to identify methodologies for the calculation of the compliance fee in accordance with Regulation 76 of the WEEE Regulations for the compliance year ending 31 December 2014. We have been asked to consider the economic, commercial, environmental and practical rationale of various methodologies, and propose the methodology that we believe has the most merit.
- 1.13 We have not been instructed to include in this report a detailed assessment of those methodologies that we do not consider should be adopted. We have also not been instructed to:
- (1) propose a methodology for the disbursement of funds;

- (2) propose an operator or Administrator;
- (3) propose IT systems; or
- (4) calculate the Fee.

1.14 We set out important restrictions and limitations on our work in Appendix 6.

Sources of information

1.15 In preparing this report, we have reviewed EU and UK government documentation relating to the WEEE Regulations, including that published by BIS. We list the information we have relied on in Appendix 2.

Structure of this report

1.16 The remainder of this report is structured as follows:

- in Section 2, we summarise our conclusions;
- in Section 3, we describe our approach to identify and assess potential methods for determining the Fee;
- in Section 4, we set out and explain the market factors that we consider are key in any consideration of a Fee methodology;
- in Section 5, we list the criteria that we have chosen against which to assess potential methodologies;
- in Section 6, we explain and consider several possible methodologies; and
- in Section 7, we explain the methodology we recommend is adopted for the calculation of the Fee, and we explain our rationale.

2. Summary of conclusions

Introduction

- 2.1 In this section, we summarise our conclusions. We first outline the criteria against which we have assessed Fee methodologies. We then summarise the mechanics and rationale of the Fee methodology that we recommend.

Criteria

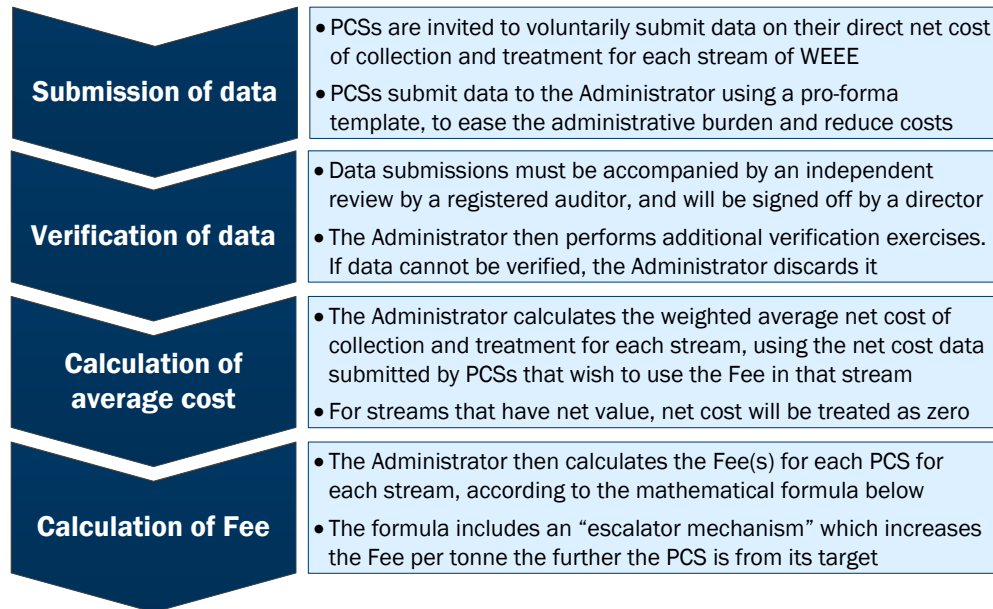
- 2.2 Using our knowledge of the WEEE market (discussed in Section 4) and our experience in advising companies and government entities on pricing and other economic aspects of regulated industries (summarised in Appendix 1), we have identified seven criteria against which Fee methodologies should be assessed:

- (1) **Effective.** The Fee must incentivise PCSs to achieve compliance by direct collection of WEEE where possible, without encouraging over-collection.
- (2) **Cost reflective.** The Fee must be directly related to the true cost of directly collecting and treating WEEE in each stream. If it is not, undesirable market distortions may arise.
- (3) **Transparent.** The Fee must be straightforward. The methodology should be understandable to all stakeholders, while maintaining confidentiality.
- (4) **Reasonable.** The administrative burden and cost of calculation must not be excessive.
- (5) **Feasible.** The financial and other data needed to calculate the Fee must be available. It must be possible to complete all necessary calculation procedures within the timeframe set out by BIS.
- (6) **Robust.** The Fee should be calculated in such a way that it cannot be manipulated by any individual PCS to harm other PCSs.
- (7) **Competition issues.** The Fee should improve competition.

- 2.3 We discuss these criteria in further detail in Section 5.

Methodology

2.4 We summarise the mechanics of our recommended methodology in the figure below. The full methodology is explained in further detail in Section 7.



2.5 The formula we recommend is as follows:

$$f_n = k_n \times (t_n - c_n) \times \left(1 + \left(\frac{t_n - c_n}{t_n} \right)^2 \right)$$

2.6 Where:

f_n : the Fee for the relevant stream, in GBP.

k_n : the weighted average net cost of collection for the stream, in GBP per tonne.

t_n : the PCS's target for the stream, in tonnes.

c_n : the amount of the stream of WEEE collected by the PCS, in tonnes.

- 2.7 We consider that this methodology meets all of the criteria identified above.
- 2.8 In particular, the methodology ensures that the Fee per tonne is higher than the weighted average net cost of collection for each stream, especially for Regulation 43 and 52 collections at large shortfalls, because of the escalator mechanism. It is therefore **effective** and **cost reflective**, because PCSs will be incentivised to achieve compliance in each stream by collection so as not to suffer a financial loss. This will help to reduce the negative externalities associated with untreated WEEE without introducing undesirable market distortions.
- 2.9 This methodology is also **transparent**, and it should be straightforward and comprehensible to all PCSs. It is **feasible** and **reasonable**, because the data required should be readily available. It is not unduly burdensome for PCSs, BIS, the environment agencies or the Administrator. It is also **robust**: it would be very difficult to manipulate the system under this methodology, and the effects of any manipulation would be minor. All PCSs that wish to use the Fee will be incentivised to submit data, as otherwise they will be unable to access it as a means of compliance. The methodology may also **improve competition** in the WEEE market by, among other things, incentivising PCSs to operate more efficiently.
- 2.10 The formula above will not be applicable to LHAs. We consider that the Fee for LHAs should be set to zero, due to the net value nature of this stream.
- 2.11 We explain the mechanics for the methodology and the rationale for our recommendation in further detail in Section 7 of this report.

3. Our approach

Introduction

- 3.1 In this section, we describe the approach that we take to identify and assess methodologies for calculating the Fee.
- 3.2 In summary, our approach is as follows:
- (1) we first identify the key market factors that must be taken into account in determining a methodology for calculating the Fee;
 - (2) next, we use these market factors and our knowledge of the issues to identify criteria against which to assess possible methodologies;
 - (3) we then determine possible methodologies and consider in detail the merits of each, according to the criteria identified above; and
 - (4) we recommend the methodology that has the most merit.
- 3.3 We discuss each step of our approach in more detail below.

Identification of key market factors

- 3.4 It is crucial that the methodology for calculating the Fee is considered in the context of the market for WEEE. By first identifying the key market factors, we ensure that our assessment of calculation methodologies is contextualised appropriately.
- 3.5 To identify the key market factors for determining a methodology for calculating the Fee, we have:
- (1) reviewed the 2013 WEEE Regulations;
 - (2) reviewed documents relating to the BIS consultation, and BIS's guidance notes;
 - (3) held discussions with the JTA, represented by leading trade associations, their producer members, and invited producer-led PCSs. In particular, we have discussed:
 - (a) the market for WEEE and the incentives of market participants in general terms;
 - (b) possible Fee methodologies;

- (c) information and data available to PCSs; and
 - (4) we have also had regard to our own experience in performing similar reviews, working with regulators on developing economic models to set prices and considering companies' objectives and incentives in regulated industries.
- 3.6 We set out the key market factors that we identify in Section 4, below.

Identification of criteria

- 3.7 Based on our consideration of the key market factors and our understanding of the relevant economic and practical issues, we next identify suitable criteria against which to assess potential methodologies. In doing so, we also take into account the guidance issued by BIS for Fee methodology proposals.
- 3.8 We set out our criteria in Section 5, below.

Determination of potential methodologies

- 3.9 Next, we identify and consider a range of methodologies based on our own experience and understanding of the issues, and discussions with the JTA. We then assess each of these methodologies against the criteria identified above. In Section 6, we list the methodologies that we have considered and describe in detail the rationale for, and potential issues with, these approaches.

Our recommendation

- 3.10 Lastly, using our criteria, we identify and refine the methodology that we believe has the most merit, and explain its economic, commercial, environmental and practical rationale.
- 3.11 We set out our recommended methodology in Section 7 of this report.

4. Key market factors

Introduction

- 4.1 In this section, we set out and explain the market factors that we consider to be important when considering Fee methodologies.
- 4.2 The market factors we identify are:
- (1) environmental considerations;
 - (2) geographic factors and the automatic right of uplift;
 - (3) different incentives for collecting different types of WEEE;
 - (4) the relative scale of some PCSs in some categories;
 - (5) the position and market dynamics of historical over-collectors and under-collectors;
 - (6) size of shortfall; and
 - (7) the structure of PCSs.
- 4.3 We discuss each of these market factors below.

(1) Environmental considerations

- 4.4 Discarded WEEE can cause soil, air and water pollution and have an adverse effect on human and animal health. Treating WEEE, reusing EEE and recycling and recovering energy from waste materials can reduce these negative externalities and have a positive effect on the environment. Encouraging the proper treatment of WEEE is an EU and UK government priority, and we consider that the Fee should be set with this priority in mind.

(2) Geographic factors and the automatic right of uplift

- 4.5 We understand that there can be a wide variation in the collection and treatment costs per tonne of a stream of WEEE, depending on the region of the UK from which it is collected. We also understand that these variations are larger for some streams of WEEE than others. The geographic effect on costs needs to be taken into account in setting the Fee, otherwise there is a risk that the Fee is biased towards more expensive or less expensive regions.
- 4.6 This issue is of particular importance given the automatic right of uplift for Local Authority Designated Collection Facilities (“DCF”). If such a DCF requests the collection of WEEE by a PCS, that PCS is obliged to organise collection regardless of the location of the DCF. It is consequently possible that PCS’ costs may differ significantly simply because one PCS has been obliged to arrange for more rural collections than another. If the Fee mechanism does not take this into account, there is a risk that some PCSs may be unduly penalised due to the right of free uplift.
- 4.7 Geography is also relevant to collections under Regulations 43 and 52, where transport costs are not obligated.

(3) Different incentives for collecting different types of WEEE

- 4.8 We understand that there are significantly different financial costs and benefits associated with collecting and treating different types of WEEE. Some types of WEEE can predominantly be collected and recycled or reused at a profit, whereas other types can usually only be collected and recycled at a net cost. The net cost of collection and treatment of many types of WEEE is determined, to differing degrees, by global commodity prices.
- 4.9 It will be important to understand the different economic incentives, costs and benefits associated with each type of WEEE in considering the Fee. One consequence of differing incentives is that a standard Fee applied across all WEEE streams would not be appropriate.

(4) The relative scale of some PCSs in some categories

- 4.10 If a PCS has a significant market share of a particular stream, that PCS’ data will have a significant influence on any average calculation. This could give rise to competition and confidentiality issues, and will need to be taken into account in considering Fee methodologies.

(5) Position and market dynamics of historical “over-collectors” and “under-collectors”

- 4.11 Under the previous WEEE Regulations, a market distortion was created whereby some PCSs over-collected WEEE. These PCSs were then able to sell evidence notes to “under-collectors” at higher prices, due to the design of the market.
- 4.12 In considering the Fee methodology it will be important to understand the market design that led to this outcome, so that similar distortions can be avoided in future. The Fee should not be set at a level that facilitates the continuation of excessive charging by over-collecting PCSs, and it should not create the price inelastic demand conditions that led to this distortion under the previous regulations.

(6) Size of shortfall

- 4.13 Some PCSs may miss their collection targets by relatively small amounts, while others may fall significantly short or choose to collect no WEEE at all. There may be very good reasons for some PCSs to miss the targets set by small amounts. Therefore, it may be appropriate for the Fee per tonne to differ depending on the size of the shortfall, with a lower Fee per tonne for PCSs that have only narrowly missed their targets and a higher Fee for those falling well short. This possibility should be considered in setting the Fee.

(7) Structure of PCSs

- 4.14 PCSs are structured in many different ways. We understand that a number of PCSs are vertically integrated with, for example, waste management companies, waste treatment facilities and retailers.
- 4.15 The accounting policies and records of vertically integrated and diversified organisations are necessarily more complex than those of single entities. The accounts of some vertically integrated PCSs may raise issues such as transfer pricing, overhead cost allocation and consolidation adjustments. These issues make the determination of costs associated with WEEE stream collection more difficult. Any element of the Fee mechanism that involves the submission of accounting data will need to be considered in this context.

5. Criteria for assessing Fee methodologies

Introduction

- 5.1 In this section, we set out the criteria that we have identified to assess possible methodologies for calculating the Fee.
- 5.2 We first summarise guidance on the submission of Fee proposals published by BIS. This guidance includes certain required features of methodologies, and so is relevant for our consideration.
- 5.3 Then, taking into account this guidance and our assessment of the key market factors in Section 4, we identify the criteria against which we consider the calculation methodology should be assessed:
- (1) effective;
 - (2) cost reflective;
 - (3) transparent;
 - (4) reasonable;
 - (5) feasible;
 - (6) robust; and
 - (7) competition issues.

BIS guidance

- 5.4 In April 2014 and August 2014, BIS published guidance on the Fee. In making our assessment we have had regard to these documents, and in particular to the following excerpts²:

“The methodology should:

- encourage compliance through collection and treatment of WEEE by PCSs via (Designated Collection Facility) DCF, Regulation 43 or 52;

² Guidance for submissions of proposals to BIS for a compliance fee under the WEEE Regulations 2013, BIS; Guidance on submitting proposals for a WEEE Compliance Fee Methodology, BIS.

- *reflect the different market economics associated with collection, treatment and environmentally sound disposal of the 6 WEEE collection streams;*
- *set out a methodology for calculation of a compliance fee across each WEEE collection stream and argument/evidence in support of that methodology;*
- *be stream specific...*
- *indicate the extent to which the feasibility of the fee has been tested robustly...*
- *allow innovation*
- *consider the impact of and comply with other relevant law, for example Competition Law...*
- *describe what information must be provided by PCSs, including evidence of auditing arrangements that ensures declarations of payments by PCSs (if needed) are robust, and how commercial confidentiality will be maintained;*
- *describe the mechanism by which PCSs can pay the fee, what information must be provided and commercial confidentiality will be maintained...*
- *set out evidence of auditing arrangements that ensures declarations of payments by PCSs are robust..."*

- 5.5 We incorporate these requirements into our criteria, below, and into our identification of methodologies in Sections 6 and 7.

Effective

- 5.6 Under the WEEE Regulations, paying the Fee is a legitimate form of compliance. However, collection should remain the preferable route for PCSs to achieve compliance. The Fee should therefore be set such that PCSs are incentivised to always directly collect WEEE where WEEE has been made available to them without additional costs. This outcome is an explicit objective in the WEEE Regulations³, and a principle in the guidance published by BIS⁴.

³ WEEE Regulations, Regulation 76, paragraph (4).

⁴ See, for example, Impact Assessment of System Changes to the UK Waste Electrical and Electronic Equipment (WEEE) Regulations, BIS, paragraph 92; and Guidance for submissions of proposals to BIS for a compliance fee under the WEEE Regulations 2013, BIS.

- 5.7 For the Fee to be ‘effective’ in this respect, having regard to the potential behaviour of under and over collectors, it will need to be set higher than the incremental cost of collecting WEEE. The Secretary of State may also wish to consider an incremental scale of Fee for PCSs that fail to meet their collection targets by a significant extent, to further incentivise collection where possible.
- 5.8 Equally, as the BIS guidance states, the existence of a compliance fee should discourage individual PCSs intentionally collecting WEEE above their targets (independent of the overall level of UK collections)⁵. To be effective, the Fee must be set at a level to encourage collection, but not to encourage intentional over-collection by individual PCSs.
- 5.9 We will consider whether each calculation methodology is ‘effective’, if it encourages PCSs to achieve compliance by collection while not incentivising over-collection.

Cost reflective

- 5.10 The “effective” criterion (above) could be met by setting the Fee to some arbitrary, excessively high figure. However, a Fee that is inconsistent with incremental costs in this way could allow the continuation of undesirable market distortions, such as deliberate over-collection and excessive pricing on secondary markets. To avoid this while maintaining effectiveness, the level of the Fee for each PCS should be related to the additional costs it would have incurred if it had met its target. That is, the Fee should be ‘cost reflective’.
- 5.11 In assessing the cost reflectiveness of each Fee mechanism, consideration will need to be given to several of the market factors identified above:
- (1) variations in costs by geography;
 - (2) variations in costs (and benefits) by WEEE type;
 - (3) PCS structure and accounting; and
 - (4) the relative scale of some PCSs in certain categories.

⁵ Guidance for submissions of proposals to BIS for a compliance fee under the WEEE Regulations 2013, BIS, “Rationale”.

- 5.12 The Government chose to implement the original WEEE directive without exercising the option of requiring mandatory handover of WEEE to obligated PCSs, and this position was retained in the 2013 WEEE Regulations. A consequence of this approach is that PCSs and other collectors can continue to over-collect positive value WEEE to generate profit, whether or not they also gain from the sale of evidence to under-collecting PCSs. We consider that:
- (1) the Fee must be directly related to the true cost of directly collecting and treating WEEE;
 - (2) the Fee for positive value streams should be set at zero; and
 - (3) the Fee must not be excessively punitive in nature. If it were, PCSs could be incentivised to over-collect, particularly net value WEEE, as a way of forcing their competitors to pay the unduly high Fee.

Transparent

- 5.13 A straightforward and transparent calculation methodology that is easily understood by all stakeholders is preferable. If the methodology is transparent, PCSs will understand how their Fee has been calculated. A transparent methodology will make commercial decisions easier, and it could reinforce the efficacy of other criteria. For instance, if a method is transparent then PCSs will understand whether it is also effective.
- 5.14 Whilst ensuring transparency, consideration should also be given to how commercial confidentiality can be maintained. It will be important for an appropriate balance to be struck between full transparency and the appropriate treatment of confidential data.

Reasonable

- 5.15 The administrative burden and cost of calculating the Fee must not be excessive. PCS' administrative obligations, such as gathering and submitting data, should be proportionate and not unduly burdensome. The cost of calculating the Fee should be kept at a minimum. A straightforward calculation is likely to be the most reasonable.

Feasible

- 5.16 The financial and other data needed to calculate and comply with the Fee must be available. A Fee mechanism that asks PCSs for data that may not be available is unrealistic.

- 5.17 It should also be feasible to complete the calculation and administration of the Fee within a reasonable period of time, and certainly within any deadlines set within the WEEE Regulations. We understand that BIS intends to announce the mechanism for administering the Fee by the middle of February following the end of the compliance year, for payment by 31 March⁶. It should therefore be possible to complete all calculation and administration of the Fee in a period of about one month.

Robust

- 5.18 The Fee must be calculated in such a way that market participants are not able to manipulate the system. It should not be possible for a PCS to take any actions, including submitting intentionally misstated data, to harm other PCSs.
- 5.19 Assessing how robust each Fee mechanism is will require a thorough consideration of all stakeholders' incentives.

Competition issues

- 5.20 The Fee should encourage and promote competition in the market for WEEE. It should not result in a breach of competition law. In assessing the methodologies, we consider whether potential competition issues may arise, but we do not put forward any legal conclusions.

⁶ Guidance for submissions of proposals to BIS for a compliance fee under the WEEE Regulations 2013, BIS, page 3.

6. Our assessment of the possible options

Introduction

- 6.1 In this section we explain and consider the methodology options available for the calculation of the Fee.
- 6.2 We have considered a wide range of options. For the purposes of brevity, in this section we consider three methodologies in detail that, in principle, may have merit. The methodologies are:
- (1) a Fee based on PCS' average costs of collection and treatment of WEEE;
 - (2) an individualised Fee based on each PCS's costs of collection and treatment;
and
 - (3) a Fee calculated using a cost model assuming a hypothetical efficient operator.
- 6.3 As we explain in Section 7, we consider that all direct costs and revenues associated with collection and treatment (i.e. net cost) should be considered in calculating the Fee.
- 6.4 We then discuss each of the three methodologies above in turn. We explain the possible mechanics of the calculation – incorporating data collection, data verification and calculation – before assessing the methodology against the criteria outlined in Section 5.
- 6.5 In Section 7, below, we explain our recommended methodology which builds on the methodologies discussed in this section.

Method 1: Fee based on PCS' average net cost of collection and treatment

- 6.6 The Fee for each WEEE stream could be calculated by taking the average of the net costs incurred by PCSs in the collection and treatment of that stream of WEEE in the compliance year.

Data collection

- 6.7 PCS net cost data could potentially be obtained by mandating all PCSs to submit net cost data. Direct cost and income data could be submitted by PCSs so that it is only accessible to the Administrator of the Fee to ensure confidentiality, using a standard pro-forma template. The template could include clear instructions on which cost and income data to submit, to ensure comparability of data between PCSs.

Data verification

- 6.8 Ideally, all submitted net cost data would be subject to a full audit, to prevent any accidental or deliberate misstatements. However, the time period between the announcement of the Fee mechanism and the date by which PCSs must make their compliance declaration (around one month) may be insufficient for a full audit of data to be carried out.
- 6.9 The Administrator could compare submitted cost and income data between PCSs, to identify any anomalies, but this may not provide adequate assurance that the data is accurate.








Calculation

- 6.10 The Administrator could calculate the average net cost of collection and treatment for each stream of WEEE from the data submitted. The calculation of the average net cost should be weighted based on the tonnes of WEEE collected by each PCS, so that it is not skewed by small and therefore potentially unrepresentative collections.
- 6.11 When using an averaging calculation, it is important to recognise that:
- (1) inevitably, for a PCS that needs to use the Fee, its costs of collection and treatment will be different to the average. This is most likely to be the case if all PCSs are included in the average, because the costs of the PCSs that need to use the Fee will have proportionately less influence on the calculation. For instance, if the only PCS to miss its target is a high cost operator, its Fee will be much lower (and consequently less effective) if other, lower cost PCSs are included in the average. An average calculation based on data from all PCSs may therefore not be as 'effective' for some PCSs, unless some adjustment is made; and
 - (2) a further concern is that PCSs will be able to compare their own costs to the average. If a PCS knows which other PCSs comprise the average, this could have a negative effect on competition as low cost PCSs choose to lower their efficiency or increase their member charges without fear of becoming uncompetitive.

Assessment

6.12 In Table 6-1 below, we consider a Fee based on PCS' average net cost of collection against our criteria.

Table 6-1: Assessment of Fee based on PCS' average net cost of collection and treatment

Criterion	Assessment	Rating
Effective	A Fee based on the average costs of all PCSs may not incentivise individual, high-cost PCSs to collect and treat WEEE where possible.	
Cost reflective	The Fee is directly linked to the average costs incurred by PCSs. However, as above, a Fee based on the average costs of all PCSs may not be cost reflective for each individual PCS.	
Transparent	The method is straightforward and comprehensible. Care will need to be given to ensure confidentiality is maintained.	
Reasonable	Submitting cost data and calculating an average does not represent an unduly high administrative burden. However, we understand that mandating all PCSs to submit cost data may require a change in regulations, which may not be practical.	
Feasible	We understand that data on the cost of collection and treatment for each WEEE stream should be readily available to all PCSs within the time frame required.	
Robust	The period between the determination of the Fee methodology and the due date for payment (one month) is not sufficient to organise a full audit of submitted cost data. Further consideration needs to be given to how the Administrator can verify the cost and income information submitted by PCSs. If there is no verification, false data could be submitted and included in the average.	
Competition issues	The potential to submit intentionally misstated accounting data for a particular stream of WEEE could create perverse competition issues. If PCSs are able to compare their own costs to an average of all PCS costs, there could be an adverse effect on competition.	

Summary

- 6.13 Calculating the average cost of collection and treatment of each stream of WEEE would be a feasible and transparent basis for the Fee. However, further consideration needs to be given to how data is verified, how potential competition issues arising from calculating the average can be overcome, and how the average can be adjusted to be effective for the PCSs who need to use the Fee.

Method 2: Individualised Fee based on each PCS's net costs of collection and treatment

- 6.14 A second method for calculating the Fee for each stream could be to set it equal to the net costs incurred per tonne by each individual PCS. That is, a PCS's Fee for a stream will be based on its own costs of collection and treatment, and it may or may not be the same as another PCS's Fee.

Data collection

- 6.15 Direct cost and income data could be submitted by PCSs to the Administrator using a standardised pro forma template, as discussed in Method 1, to ensure comparability of data.
- 6.16 PCSs that need to use the Fee will be required to submit data, so that their Fee can be calculated.

Data verification

- 6.17 As discussed in Method 1, the verification of data presents a potential issue. The Administrator could compare submitted cost and income data between PCSs, to identify any anomalies, but this may not provide adequate assurance that the data is accurate. Additional issues arise if only one PCS submits data. Further consideration will need to be given to how the data is verified.

Calculation

- 6.18 The Administrator will need to calculate separate Fees for each PCS for each stream. This potentially presents a more significant administrative burden than Method 1, depending on how many PCSs need to use the Fee in how many streams.

Assessment

- 6.19 In Table 6-2 below, we consider a Fee based on PCS's individual net costs against our criteria.

Table 6-2: Assessment of individualised Fee based on PCS's net costs

Criterion	Assessment	Rating
Effective	The Fee is based on PCS's individual costs. It is likely that compliance by collection will be incentivised for all PCSs.	✓
Cost reflective	The Fee is cost reflective for each individual PCS assuming that it submits data and actually collected WEEE.	✓
Transparent	The method is straightforward and comprehensible. PCSs will be able to accurately estimate their own Fee, as it will be directly calculated from their own cost data. As above, steps will need to be taken to ensure the data remains confidential.	✓
Reasonable	A potential issue is that calculating individual Fees could present a higher administrative burden, depending on how many PCSs need to use the Fee.	✗
Feasible	We understand that data on the cost of collection and treatment for each WEEE stream should be readily available to all PCSs within the time frame required.	✓
Robust	The period between the determination of the Fee methodology and the due date for payment (one month) is not sufficient to organise an audit of submitted cost data. Further consideration needs to be given to how the Administrator can verify the cost and income information submitted by PCSs. If there is no verification, false data could be submitted.	✗
Competition issues	Levying a different Fee on each PCS could create competition issues. It may not be acceptable to competition authorities to levy very different Fees on two PCSs with similar absolute and proportionate shortfalls. This is a potential barrier to entry.	✗

Summary

- 6.20 Setting individual Fees for each PCS based on their net costs might appear to be the most directly relevant measure for the Fee, in particular because the method would be transparent and, by definition, cost reflective. However, it is not clear how data submitted can be verified in the time frame required, calculating individual Fees increases the work (and cost) of the Administrator, and competition issues may result from different Fees being levied on different PCSs. Furthermore, this could drive PCS's to focus on lower cost WEEE, and as a consequence, some PCS's would be faced with a disproportionate amount of high cost WEEE due to the "right of uplift".

Method 3: Fee calculated using a cost model assuming a hypothetical efficient operator

- 6.21 The Fee could be determined using a cost model that estimates, for each stream of WEEE, the efficient transport, treatment and other direct costs of collection and treatment, and income associated with treatment or re-use, for a hypothetical entrant in the WEEE market.

Data collection

- 6.22 Specialist logistics software to estimate costs and data on secondary material values and container and transport costs is readily available. Collection of data under this methodology will be relatively simple, but input may be required by individuals with appropriate expertise in the WEEE industry.

Data verification

- 6.23 Data verification should not present an issue under this methodology, provided the data used is from a reputable source and the cost model is independently checked for errors.








Calculation

- 6.24 The modelling software can be used to calculate efficient costs for a hypothetical new entrant. The Fee can then be based on this calculation. Consideration will need to be given to how accurately modelled costs will reflect actual costs of PCSs, however.

Assessment

6.25 In Table 6-3 below, we consider a Fee based on cost modelling against our criteria.

Table 6-3: Assessment of Fee calculated using cost modelling

Criterion	Assessment	Rating
Effective	Theoretical or efficient costs based on a hypothetical entrants' operating model will not necessarily reflect reality for all PCSs. If there is a mismatch, the Fee may not be effective.	
Cost reflective	As above, the Fee is not based on actual cost data. It is an estimate of efficient costs, which may be inconsistent with the actual costs of some or all PCSs.	
Transparent	The modelling may not be straightforward. However, all inputs, outputs and calculations could conceivably be shared with all PCSs with no danger of breach of confidentiality.	
Reasonable	Creating an accurate and robust cost model (or modifying an existing cost model) that can be relied on without question could be a significant and costly exercise.	
Feasible	Logistics software and cost benchmarks are readily available, but cost modelling would be a significant exercise for the Administrator that may not be feasible given time restrictions.	
Robust	Provided the cost model is created by an independent third party, it should not be possible for PCSs to manipulate the calculation to their advantage.	
Competition issues	The results of publishing the cost model could create a benchmark level to which PCS costs, or the Fees that PCSs charge their members, gravitate. This could have a negative effect on the competitiveness of the market for WEEE.	

Summary

6.26 Cost modelling would be a robust and transparent way to estimate an efficient cost level, from which a Fee could be calculated. However, it is possible that the costs estimated by the model would be inconsistent with the actual costs of PCSs, which may eliminate the effectiveness of the Fee.

Issues with methodologies identified

6.27 There are several key issues with the methodologies discussed and assessed above.

- 6.28 With respect to **effectiveness** and **cost reflectiveness**, the methodology must ensure that the Fee is reflective of the costs of the PCSs that use it. A model that estimates efficient costs or an average that includes all PCSs may not be representative of the costs of an individual PCS. There is a danger that a Fee based on these calculations could be too low to encourage collection of WEEE for some high cost operators.
- 6.29 All of the methods discussed above are **transparent**, but it is vital that confidentiality is maintained in the methodology proposed.
- 6.30 The methodologies could be **feasible** and **reasonable**, although if individual Fees are to be calculated for each PCS the cost of the Administrator could be significant.
- 6.31 Further consideration will need to be given to how to make the methodology **robust**. In particular, it must be possible for the Administrator to assess the accuracy of any data submitted by PCSs to ensure there are no misstatements. This must be achievable within the time frame set out in the WEEE Regulations, and without creating an undue administrative burden. The Fee should also be set such that there is no incentive for a PCS to submit intentionally misstated data to benefit itself or harm other PCSs.
- 6.32 Finally, there are potential **competition issues** with the methodologies above. Any methodology that allows a PCS to compare its costs to those of others (even as an average) could have adverse effects on competition. A methodology that assigns a Fee to individual PCSs based on their historical costs could also introduce barriers to entry.
- 6.33 We consider how to resolve these issues in forming our recommended methodology in Section 7, below.

7. Our recommended methodology

Introduction

- 7.1 In this section, we propose the methodology that we consider should be used to determine the Fee. We first explain the mechanics of the methodology, before assessing the methodology against the criteria listed in Section 5, above.

Our recommended methodology

- 7.2 Our recommended methodology is based on a mixture of the positive elements of the options discussed in Section 6. We have looked to combine these options in a way that addresses the issues identified in Section 6.
- 7.3 In summary, the methodology that we recommend is based on the weighted average net cost of collection and treatment of each stream of WEEE, calculated using the incremental avoidable net cost data voluntarily submitted by PCSs that need to use the Fee. The Fee is calculated using a formula that ensures that the Fee per tonne increases the further the PCS is from achieving its target, to incentivise compliance by collection. We refer to this mechanism as “the escalator”.
- 7.4 As we explain below, in our view this is the calculation methodology that has the most merit.
- 7.5 Below, we set out:
- (1) the formula;
 - (2) the relevant income and costs that should be incorporated into the Fee;
 - (3) how data should be collected from PCSs;
 - (4) the steps the Administrator will take to verify data submissions;
 - (5) how the Fee will be calculated;
 - (6) the mechanics of the escalator mechanism;
 - (7) our recommendation with regard to large household appliances (“LHAs”); and
 - (8) the timeline for the collection and verification of data and the calculation and payment of the Fee.

- 7.6 We then consider the rationale for this methodology by reference to the criteria outlined in Section 5.

Formula

- 7.7 We consider that the Fee for each stream of WEEE should be calculated using the following formula:

$$f_n = k_n \times (t_n - c_n) \times \left(1 + \left(\frac{t_n - c_n}{t_n} \right)^2 \right)$$

- 7.8 Where:

f_n : the Fee for the relevant stream, in GBP.

k_n : the weighted average net cost of collection for the stream, in GBP per tonne.
The calculation of this is explained below.

t_n : the PCS's target for the stream, in tonnes.

c_n : the amount of the stream of WEEE collected by the PCS, in tonnes.

- 7.9 In Appendix 3, we provide an illustrative numerical example of the calculation of the Fee under this method, using fictional data.

Relevant income and costs

- 7.10 For our 'cost reflective' criterion to be met, the Fee per tonne should be based on the costs that a PCS would have incurred and the income it would have earned if it had arranged for the collection and treatment of an additional tonne of WEEE for the relevant WEEE stream.

- 7.11 There are therefore two important principles to bear in mind in estimating the net cost:

- (1) **revenue and costs must both be considered.** For streams of WEEE that have value, like LHAs, the income from reuse or resale of component parts and recyclates should be taken into account, along with transport and treatment costs (where applicable). It is therefore the *net cost* that is relevant. The net cost should have a minimum value of zero: it would not be appropriate for net cost to be negative in the calculation of the Fee; and

- (2) **only direct, incremental and avoidable costs and revenues should be included. Overheads are not relevant.** That is, the estimate should include only the additional costs and income associated with collecting and treating an additional amount of WEEE. Overhead costs, including administration, marketing, human resources and office rent are not incremental or directly related to the quantity of WEEE collected, and so they should not be included in an assessment of net cost for the purpose of the Fee.

Furthermore, the majority of PCSs undertake a range of other activities outside of the household WEEE sector. This includes activities related to non-household WEEE, other waste management and other producer responsibility regimes. Correctly and consistently allocating a portion of common overhead costs to household WEEE would not be practically possible in the time available.

Our view on this has been corroborated through discussions with the JTA and through reviewing information on PCS costs on a confidential one to one basis with producer-led PCSs.

- 7.12 We explain the definition of direct, incremental and avoidable revenue and costs further in Appendix 4.

Data collection

- 7.13 Calculation of the weighted average net cost of collection for each stream of WEEE (K in the formula above) will require data submissions by PCSs. We set out the key steps we consider represent an effective and appropriate data collection process below.
- 7.14 Following the announcement of the Fee methodology by mid-February⁷, the Administrator will write to all PCSs to:
- (1) invite them to submit net cost data;
 - (2) ask whether or not they wish to use the Fee for each stream; and
 - (3) ask for their target and amount collected in each stream.
- 7.15 The Administrator will also agree terms and conditions with all PCSs submitting data. These terms and conditions will include provisions to ensure confidentiality of data submitted between all parties (including non-disclosure agreements), and a commitment on the part of PCSs to abide by the findings and decisions of the Administrator.

⁷ Guidance for submissions of proposals to BIS for a compliance fee under the WEEE Regulations 2013, BIS.

- 7.16 We consider that to ensure consistency across submissions, PCSs which choose to use the Fee should then submit net cost data to the Administrator using a collection template. We include an example template together with detailed instructions on its completion at Appendix 4 of this report. We understand that from our discussions with the JTA that this information should be readily available to PCSs.
- 7.17 Any PCS then has the option to complete this template with the costs it has incurred in respect of directly collected WEEE in each stream in the compliance year. PCSs may submit data for some streams and not others as appropriate. A PCS that does not need to use the Fee in a stream may nevertheless provide the Administrator with cost data if it wishes. As we explain below, this data will not be used to calculate the Fee, but will be used to verify data submitted by other PCSs. PCSs that expect to use the Fee in a stream are incentivised to submit net cost data, because otherwise they will not be able to use the Fee in that stream.
- 7.18 PCSs will arrange for an independent review of the submitted data. A registered auditor will be engaged by each PCS to provide limited assurance on whether the net cost data provided is misstated, in accordance with a set of agreed upon procedures. A limited assurance engagement provides a moderate level of assurance based on a review of the relevant supporting evidence of the net cost data. It is significantly less costly and time consuming than a full audit. We consider that limited assurance is proportionate in this case. In Appendix 5 to this report we set out the wording of the independent assurance report that would be required.
- 7.19 If a PCS decides to use the Fee, it must submit net cost data to the Administrator before 28 February following the end of the compliance year. This date may need to be flexible, depending on the date on which BIS announce the chosen Fee mechanism. The independent assurance report should be provided along with the data, and a director of the PCS will be required to sign off on the submission to confirm that the data is accurate to the best of his or her knowledge. Data submitted will be accessible only by the Administrator.

Data verification

- 7.20 After PCSs have submitted data on their net costs, the Administrator will undertake several verification exercises.
- 7.21 The Administrator will first review the independent review opinions on the data submitted by PCSs, and will have the option of contacting each auditor directly to confirm the opinion shown on the submissions. Any data provided with a modified opinion will be rejected.

- 7.22 Net unit costs for each stream will then be compared between PCS submissions to identify any anomalies. Particular regard will be given to the potential effect of related party transactions on net cost data (e.g. if a PCS uses an AATF owned by the same parent company to treat WEEE).
- 7.23 If the Administrator identifies anomalies, it will first ask questions of, or request further data from, the PCS in question. If the Administrator is not able to resolve data anomalies, it has the discretion to request a fuller audit of data, or reject the submission.

Calculation

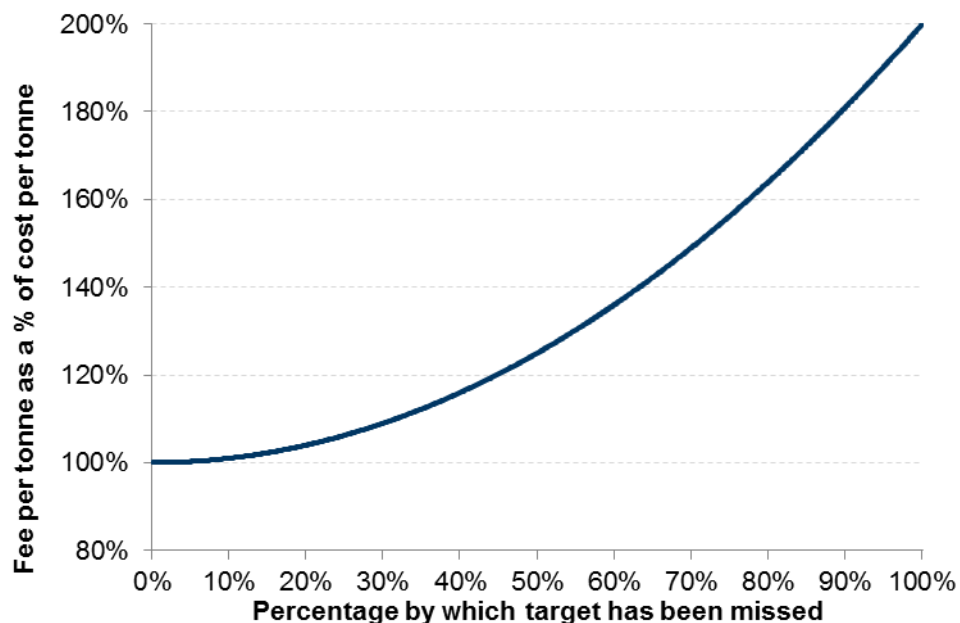
- 7.24 Once data has been received and verified, the Administrator will calculate the Fee for each PCS that needs to use it, as described below.
- 7.25 The Administrator will discard data, by stream, for PCSs that do not wish to use the Fee for that stream. It will then calculate the weighted average direct net cost of collection and treatment for each stream of WEEE. This will be calculated by:
- (1) calculating the total direct net cost incurred in the collection and treatment of that stream of WEEE by PCSs that have shortfall in the stream; and
 - (2) dividing this by the aggregate amount of that stream of WEEE directly collected and treated by those PCSs.
- 7.26 This calculation results in the K parameter, to be used in the formula above, applicable to each stream. There will be six such calculations, assuming at least one PCS needs to use the Fee in every stream. This parameter cannot be negative: if the weighted average net cost of a stream is negative (i.e. there is net income), it will be set to zero.
- 7.27 If no data has been submitted by any PCS that needs to use the Fee for a particular stream, the PCS will not be able to access the Fee. This acts as a clear incentive for PCSs to submit data.
- 7.28 If a PCS applies to the Administrator to use the Fee for a specific stream, but has made no directly managed collections in that stream, it will be unable to provide the collection cost data required by the Administrator. In this case the Administrator will calculate the Fee using data submitted for that stream from any other PCSs. In the unlikely event that no other PCS has submitted relevant data for that stream, the Administrator may make use of any other sources of market data that the Administrator considers appropriate. It should be noted that a PCS who has not provided any cost data, yet wishes to use the Fee, will automatically face the maximum escalator multiplier (as explained below).

- 7.29 Finally, the Administrator will use the formula above to calculate the Fee payable by each PCS in respect of each stream. We attach to this report a Microsoft Excel calculation template that may be used to calculate the applicable Fee(s) for each PCS. The Administrator will then communicate Fee(s) confidentially to the PCS. This should be done by 14 March following the end of the compliance year, giving the PCS two weeks to arrange for payment of the Fee, for the Administrator to certify its receipt, and for the PCS to then issue its declaration of compliance to the relevant agency.

Escalator mechanism

- 7.30 The escalator mechanism in the formula has the effect of increasing a PCS's Fee per tonne for a particular stream of WEEE according to the percentage by which the PCS has fallen short of its target in that stream. This mechanism incentivises compliance by collection, because a PCS that falls significantly short of its target will be required to pay a higher Fee per tonne than the cost it would have incurred if it had collected and treated its full target of WEEE.
- 7.31 In the figure below, we illustrate how the Fee per tonne calculated using the formula would change as a PCS moved further from its target.

Figure 7-1: Effect of escalator mechanism on Fee per tonne



- 7.32 This figure shows that if a PCS collects no WEEE in a particular stream, its Fee will be double the incremental avoidable cost of collecting the WEEE it would have needed to collect to have met its target. Where a PCS collects some WEEE, but still does not meet its target, its Fee will be between 100% to 200% of cost, as shown above.
- 7.33 We recommend that the methodology includes a non-linear escalator mechanism whereby the Fee per tonne is increasingly high the further a PCS is from achieving its target.
- 7.34 In our opinion, this is fair. Squaring the PCS's percentage shortfall more heavily penalises those PCSs that collect almost nothing, while not unduly harming those that only narrowly miss their target. We consider that it is appropriate that a PCS is more heavily penalised per tonne for being 90% short of its target than it would be if it were 10% short. Falling 10% short could be due to factors beyond the PCS's control, like the target being inadvertently set inappropriately high. Being 90% short should be avoidable.
- 7.35 As a result of this, the mechanism is very effective at incentivising compliance by collection because the Fee increases with every additional tonne of deficit. The size of this increase is more and more severe as the PCS falls further short of its target. This will clearly discourage all PCSs from deliberately under-collecting, even those with relatively high costs. This is directly in line with BIS, UK government and EU objectives, because it ensures that all PCSs will do everything possible to collect and properly treat their full targets of WEEE.
- 7.36 The escalator is also "continuously differentiable". This means that it is smooth and there are no sudden jumps. A more complicated mechanism with, for example, break points, could create market distortions. No such distortions are created by this mechanism.
- 7.37 Finally, it is important to note that despite the curve of the function, the Fee payable by a PCS that has missed its target is always greater than the weighted average cost of collection and treatment of those PCSs that use the Fee. Even if 95% of the PCS's target has already been collected, there is a clear incentive to achieve the full target. The escalator function in the formula serves to increase the effectiveness of the Fee at all shortfalls, particularly in relation to Regulations 43 and 52 where transport costs are not obligated.
- 7.38 In our view, a non-linear escalator is appropriate and helps enhance the effectiveness of the methodology, consistent with BIS guidance.

Large Household Appliances

- 7.39 We understand from our discussions with the JTA and our review of the market that LHAs overwhelmingly provide a net income, rather than a net cost, for those who collect and treat them. As a result of this, a significant amount of LHAs are outside of the producer-financed WEEE system, and the LHAs that are in the producer-financed WEEE system are typically the least valuable (e.g. geographically remote).
- 7.40 It is therefore possible that PCSs, on average, incur a net cost in the collection and treatment of the LHAs that have been made available to them, in spite of this being on average a valuable stream. This would lead to a punitive Fee for LHA shortfalls that is not cost-reflective.
- 7.41 We consider that the compliance fee for LHAs should be set to zero, irrespective of the costs PCSs incur in collecting the LHAs made available to them. We consider this appropriate, because:
- (1) it precludes the market distortion described above;
 - (2) PCSs will still be incentivised to collect and treat valuable LHAs, because they are able to make a profit doing so;
 - (3) PCSs will still collect less valuable LHAs, because DCFs have a right of free uplift; and
 - (4) administrative costs will be reduced, as less data will need to be collected and processed by the Administrator.

Summary of timeline

7.42 In Table 7-1 below, we summarise the timeline outlined above.

Table 7-1: Summary of methodology timeline

Date	Step
31 December	End of compliance year
Mid February	BIS announces the Fee methodology The Administrator sends the net cost template to all PCSs
28 February	Deadline for submission of net cost data and for PCSs to inform the Administrator whether they wish to use the Fee in each stream
1 March to 13 March	The Administrator performs verification exercises on submitted data and calculates the Fee(s) payable for each PCS
14 March	Deadline for the Administrator to inform each PCS of their Fee for each stream
14 March to 31 March	PCSs pay the Fee (if applicable) and the Administrator issues a Compliance Fee Payment Certificate to those PCSs who have paid the assessed Fee into the nominated bank account
31 March	PCSs make declarations of compliance, including a copy of the Compliance Fee Payment Certificate if applicable

Rationale for methodology

7.43 Below, we set out the rationale for this calculation methodology by reference to the criteria discussed in Section 5.

Effective and cost reflective

7.44 In its guidance, BIS explains that the Fee must incentivise PCSs to comply with their obligations by collecting and treating WEEE via DCF collections, or by returning WEEE from private households to the system (under Regulations 43 and/or 52). The methodology set out above will incentivise both of these methods of compliance, as we explain below.

- 7.45 Firstly, DCFs have a right of free uplift of WEEE. This means that all WEEE will be collected from DCFs regardless of the level of the Fee. The benefit of the methodology above is that:
- (1) it encourages PCSs to actively seek to collect WEEE from DCFs up to their targets. This is because the Fee payable by the PCS for any shortfall against target will always be greater than the marginal cost of collection and treatment, because it is set greater than the average costs of those who need to use the Fee. As a PCS's shortfall increases, the escalator mechanism increases the Fee, further incentivising collection;
 - (2) it discourages over-collection of net cost WEEE, because there is no financial or other benefit to a PCS for collecting more than its target (unlike under the previous WEEE Regulations); and
 - (3) it is ultimately based on the actual costs incurred by PCSs in the compliance year. This means that the Fee, if it is payable, will be sensible and proportionate to costs. The market distortions characterised by high prices for evidence notes seen under the previous WEEE Regulations will not be repeated.
- 7.46 The methodology will also encourage the returning of WEEE from private households to the system (under Regulations 43 and/or 52), where there is no right of free uplift. For collections under Regulations 43 and/or 52, the cost of transport is not an obligated cost for producers, and so the overall cost of collection and treatment will invariably be lower than the cost of a DCF collection. As the Fee is set predominantly by reference to DCF collection costs – we understand that in 2013, some 80% of collections were from DCFs – the Fee will be significantly higher than the cost of WEEE arising under Regulation 43 or 52. The Fee is therefore particularly effective at incentivising non-DCF collections, because undertaking these collections will be cheaper for PCSs than paying the Fee.
- 7.47 Under both routes of collection, it is important to note that while the Fee may be set to zero for certain value streams, PCSs are still incentivised to collect and treat up to and beyond their targets because of the income that value streams can offer.
- 7.48 Overall, the Fee is **cost reflective**, and **effective** at incentivising compliance by collection. The harmful externalities associated with untreated WEEE will be reduced under this methodology, without the creation of undesirable market distortions arising from a Fee mechanism that is not proportionate to costs.

Transparent

- 7.49 The calculation methodology is straightforward, and it will be comprehensible to all PCSs. All PCSs will understand what the Administrator is doing with data submissions, and those PCSs that wish to use the Fee will understand how their Fee has been calculated.
- 7.50 The methodology also maintains confidentiality, by requiring that all data is submitted so that it is only accessible by the Administrator. At no point do PCSs have access to the data of other PCSs. Those PCSs that wish to use the Fee will see a weighted average net cost figure, but they will be unable to derive any confidential information from this average figure because they will not know which other PCS' data has contributed to the calculation.
- 7.51 The methodology is therefore **transparent**.

Feasible and reasonable

- 7.52 We understand from our discussions with the JTA that completing the net cost template at Appendix 4 of this report should be possible for all PCSs. We consider that the limited assurance requirement is proportionate given the limited time constraint (see Section 5), and will help ensure the accuracy of data submissions while not being unduly burdensome. We have verified this by piloting the proposed methodology using data separately supplied to us in a confidential manner by three PCSs. We were able to calculate the Fee for each stream where applicable without any issues. As a result of this pilot we made minor changes to Appendix 4 included in this final version of the report.
- 7.53 The Administrator will be required to engage with PCSs and verify and calculate data, but we do not consider that the cost of this service will be unreasonable given the overall merit of the methodology.
- 7.54 As a result, we consider that the methodology is **feasible** and **reasonable**.

Robust

- 7.55 Under this methodology, the only way that a PCS can manipulate its own Fee or that of other PCSs is by submitting misstated data. The methodology includes several steps to prevent this happening:
- (1) all data submissions must be subject to an independent review by a registered auditor, which will be confirmed by the Administrator;
 - (2) a director of the PCS is required to sign off on all data submissions to verify that the data is true and fair to the best of his or her knowledge;

- (3) all data submissions will be reviewed by the Administrator. The Administrator will compare data submissions between PCSs to identify any anomalies. Anomalies will be investigated with PCSs; and
 - (4) the Administrator has the right to ask questions of PCSs, request further data, request a full audit of data or reject a submission.
- 7.56 In addition, only data from those PCSs that wish to use the Fee will be included in the weighted average net cost calculation for each stream. This means that a PCS that has met its target is not able to submit high cost data simply to increase the Fees of others, because its data will be discarded before the averaging calculation.
- 7.57 In summary, in our opinion it would be extremely difficult for any PCS to manipulate this Fee mechanism. It is therefore **robust**.

Competition

- 7.58 One competitive benefit of this Fee methodology is that all PCSs will be incentivised to be as efficient as possible so as to reduce costs, as this is the only way a PCS can lower its own Fee. This acts as an incentive for innovation rather than a barrier to innovation for all operators.
- 7.59 Secondly, a PCS cannot make any conclusions from how its own costs compare to the weighted average cost figure, because it does not know the composition of the average. The PCS will only be able to infer that there is at least one other PCS with higher or lower costs. This will help improve market efficiency and competition.
- 7.60 Thirdly, there are no barriers to entry created by the system. New entrants to the market will face the same Fee as existing participants. This is fair.
- 7.61 In our view, as economists and accountants, this methodology will have a **positive effect on competition**.

Precedent

- 7.62 If calculated using this methodology, the Fee will be comparable to the civil penalties for noncompliance applicable under the Environmental Protection Act, the Regulation Enforcement Sanctions Act, the US Clean Air Act and other US environmental legislation, in that it removes the economic benefit of non-compliance and incorporates an additional cost depending on the gravity of the violation. There is considerable precedent for a regulatory methodology of this nature.

Summary

- 7.63 In summary, we consider that this is the methodology with the most merit, and is the only methodology that meets each of the criteria outlined in Section 5.

- 7.64 In particular, this methodology will incentivise compliance by collection (through DCFs and via Regulations 43 and/or 52s), helping to reduce the negative externalities associated with untreated WEEE without introducing undesirable market distortions.
- 7.65 The mechanism is also practical, not unduly burdensome for either PCSs or BIS, and it is easy for all stakeholders to understand. It would also be very difficult to manipulate the system under this methodology. Lastly, it will help improve competition in the WEEE market, in particular by incentivising PCSs to operate more efficiently.
- 7.66 We consider that this methodology should be adopted under Regulation 76 of the WEEE Regulations.

Appendix 1 FTI Consulting experience

- A1.1 FTI Consulting is a global business advisory firm that provides multidisciplinary solutions to complex challenges and opportunities. We frequently work with trade bodies, regulators, government entities and companies to consider issues in relation to price setting and cost allocation, and to provide competition and regulatory advice. This experience is directly relevant to determining a methodology for the Fee.
- A1.2 In the table below, we set out our selected experience in issues relevant to a consideration of the Fee.
- A1.3 At the end of this appendix we attach the CVs of the core team members who have worked on this engagement, Navin Waghe and Benjamin Johnson.

Table A1-1: FTI Consulting experience

Project	FTI Consulting role
Competition policy/investigation	
PCS v WEEE recycler	Instructed in a competition law dispute between a PCS and a recycler of WEEE. We quantified the losses allegedly suffered by the claimant as a result of the alleged abuse.
BT vs Sky	Providing written expert and oral evidence in a pricing dispute between BT and Sky, heard before the UK Competition Appeals Tribunal in 2011. The case related to the price at which BT gained access to Sky Sports 1 & 2.
Ethernet service charges	Providing written expert and oral evidence in a pricing dispute between Sky, TalkTalk, Virgin Media, Cable & Wireless and Verizon and BT regarding BT's charges for Ethernet services.
Excessive pricing in South Africa	Providing written expert and oral evidence in an excessive pricing dispute between the Competition Commission of South Africa and a large energy and chemicals company.
Excessive pricing of a UK port	Providing written expert evidence in relation to an excessive pricing dispute involving two oil companies and a UK port.
Excessive pricing of a UK airport	Providing written expert and oral evidence in a pricing dispute between an airport and an airline.
Ofcom	Assisting the UK communications regulator (Ofcom) in a major Competition Act investigation into BT's pricing of its broadband

Project	FTI Consulting role
	services.
Excessive pricing of calls	Conducting financial investigations into whether an operator's pricing of calls to hospital patients was excessive.
Costs and pricing in the Milk supply industry	Producing expert evidence to the UK Competition Appeals Tribunal related to a decision by the Office of Fair Trading to close an investigation into alleged anti-competitive actions in the milk supply industry relating to the pricing of certain products.
Excessive pricing of US technology corporation	Providing advice to a US global technology corporation in the context of an EC excessive pricing review. The review focused on specific product prices and the treatment of R&D costs and the appropriate allocation principles to be applied to joint and common costs.
Sanofi-Aventis	Advising Sanofi-Aventis during a competition investigation regarding alleged predatory practices in the pharmaceutical industry in front of the French Competition Council.
European stock exchange	Advising a major European stock exchange during a European Commission investigation into potential predatory practices in securities trading.
Network Rail	Advising Network Rail in preparation for a potential appeal to the Competition Commission during the price control review for the period 2009-2014.
Telefonica	Advising Telefonica during an investigation into alleged price fixing in mobile telephony.
Electronic products	Advising an electronic goods manufacturer regarding an allegation of resale price maintenance.
Standard and Poor's (S&P)	Advising S&P during a EC investigation into its CUSIP Service Bureau.
Correos	Advising the Spanish postal operator on a range of issues associated with competition cases, pricing and the liberalisation of downstream access.
Price controls/price setting	
Gas company	Advising a gas company on aspects of regulation, particularly in relation to its gas transportation network, regulatory best practice in relation to price controls, the form of controls, the structure of controls and the value of its asset base.
Ofgem	Advising on three retail gas price controls.
Electricity distribution company	Performing a detailed review of an electricity distribution company during the 2009 price control, to assess whether there was sufficient grounds for appeal Ofgem's price control determination

Project	FTI Consulting role
	to the UK Competition Commission.
Water company	Advising a water company on its price control determination, and on whether there were grounds to appeal Ofwat's decision to the UK Competition Commission.
Bristol Water	Advising Bristol Water on price control matters during the PR09 review.
Postcomm	Developing a price control financial model to determine the total level of allowable revenues over a price control and for testing different tariff structure options.
Gatwick Airport	Engaged by Gatwick Airport to assist with the Q6 price control. Asked to assess prices on a long run incremental (LRIC) basis.
Royal Mail	Advising Royal Mail on a range of price control issues.
Ofgem	Advising Ofgem on Transco's future costs for the purpose of setting regulated prices.
WICS	Helping design the methodology for WICS to calculate the wholesale charges applying to pre-existing non-standard tariff agreements.
Electricity price regulation in Oman	Appointed by the regulator in Oman to determine regulated electricity prices.
Credit card pricing of a UK retail bank	Assisting a major UK Retail Bank with their credit card pricing and marketing strategy.
Royal Mail's zonal pricing	Reviewing Royal Mail's underlying costs from its application to allow postal prices to vary according to delivery zones for Postcomm.
Northern Ireland water price controls	Supporting Northern Ireland Authority for Utility Regulation in setting a price control for Northern Ireland Water ("NIW").
Price control review of television transmission charges	Our expert worked with the Independent Television Association in the UK on the preparation of submissions to the Office of Telecommunications (OFTEL) in connection with the price control review of the National Telecommunications' television transmission charges.
Railway infrastructure access charges	Producing an independent expert report submitted to a court in an EU member state in Eastern Europe in the context of a dispute over the appropriate calculation of railway infrastructure access charges.
Port access pricing	Providing advice to a port user on the determination of a reasonable tariff for the exclusive use of a dedicated port facility that is essential to the company's operations.

Project	FTI Consulting role
Express parcel transportation pricing	Advising a franchisor in the express parcel sector engaged in a dispute with its franchisees over the level of network transportation charges.
Tariff setting of a broadcast transmission network operator	Providing advice to a European broadcast transmission network operator on the development of a tariff structure for the introduction of digital terrestrial television.
Broadcast transmission network access pricing	Providing advice to a European broadcast transmission network operator on the level of charges it levied to an independent TV channel in the late 1990's and early 2000's in the context of a claim for excessive pricing.
Resale price maintenance on branded medicines	The case concerned resale price maintenance on branded non-prescription medicines, and its impacts on competition and profitability at the manufacturer and retailer levels.
Rail access charges in Estonia	Appointed as an expert by the High Court of Tallinn in connection with a dispute over rail access charges in Estonia for freight operators.
PowerGas, Singapore	Advising PowerGas in the design and implementation of a set of transportation tariffs for Singapore's gas transportation company, in preparation for the opening of the liberalised gas market.
Cost allocation	
Channel Tunnel	Advising in a dispute relating to the appropriate method of allocating common costs to different elements of this major construction project.
Postcomm	Developing a set of best practice principles for allocating costs between Royal Mail's business units and to products.
Allocation of costs of a UK television and radio transmission provider	Advising a UK provider of television and radio transmission and broadcasting services and facilities on the allocation of costs between services and on the level and structure of charges.
Costing and profitability of a UK car component manufacturer	Applying activity-based costing principles to assist a UK car component manufacturer to assess the profitability of different customers and part types.
Scottish Hydro-Electric cost allocation	Advice on the allocation of costs between the generation, transmission, distribution, supply, and non-electricity businesses of Scottish Hydro-Electric.
Allocation of costs of a television and radio transmission provider	Advising the monopoly provider of television and radio transmission and broadcasting services and facilities in a large West European country on the allocation of costs between

Project	FTI Consulting role
	services.
Cost allocation in Slovenian postal sector	Providing advice to the postal regulator in Slovenia on cost allocation and regulatory financial reporting issues.
Air transport industry cost allocation	Assessment of BAA's revenue and cost allocation processes.
Cost forecasting and allocation	Developing models to forecast and allocate costs to inform commercial and regulatory pricing decisions for client in the Middle East.
Groupement des Cartes Bancaires (GCB)	Developing cost models for card payment and cash withdrawal and a tourist-test analysis on the basis of third-party retailer data.

Appendix 2

Sources of information

- A2.1 In preparing this report, we have relied on the following sources of information:
- European Parliament Directive 2012/19/EU on WEEE, July 2012
 - BIS, WEEE System Impact Assessment, January 2013
 - BIS, Implementation of the WEEE recast directive: Consultation, April 2013
 - BIS, Implementation of the WEEE recast directive: Summary of Responses to Consultation, August 2013
 - BIS, Implementation of the WEEE recast directive: Government Response to Consultation, October 2013
 - BIS, WEEE Regulations, Government Guidance Notes, March 2014
 - The WEEE Regulations, December 2013
 - BIS, Guidance for Submission of Proposals to BIS for a Compliance Fee under the WEEE Regulations, April 2014
 - BIS, Guidance on submitting proposals for a WEEE Compliance Fee Methodology, August 2014
- A2.2 We have also discussed our work with the JTA.

Appendix 3

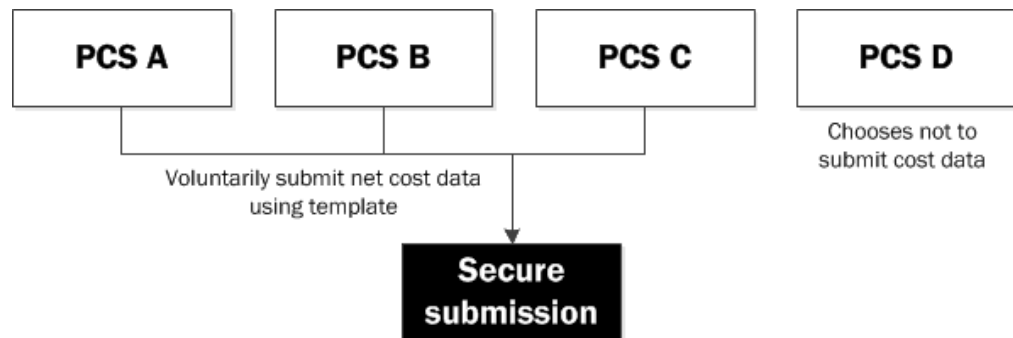
Illustrative calculation of the Fee

Introduction

- A3.1 In this appendix, we provide an illustrative example of how the Fee would be calculated using the methodology above for fictional PCSs with different circumstances.
- A3.2 For the purpose of simplicity, the example below relates to four PCSs and one unidentified stream of WEEE. In reality, the Fee may need to be calculated for all PCSs and for six streams of WEEE.
- A3.3 The data used in this example has been created using a random number generator. It is not based on the actual costs of any PCS for any stream of WEEE.

Step 1 – Submission of data

- A3.4 In mid-February following the end of the compliance year, the Administrator will send to all PCSs the net cost submission template at Appendix 4. PCSs may choose to submit their net costs using this template. As discussed in Section 7, the submission should be accompanied with limited assurance from a registered auditor.



- A3.5 In this example, PCS D chooses not to submit data. This means that PCS D will not have access to the Fee.

- A3.6 At the same time, PCSs submit to the Administrator their target, amount collected and whether or not they wish to use the Fee in each stream.

PCS	A	B	C	D
WEEE Collected (tonnes)	100	115	20	360
Target (tonnes)	120	110	120	300
Wishes to use the Fee	Yes	No	Yes	No

Step 2 – Verification of data

- A3.7 The Administrator will then collate and seek to verify the data submitted, as shown in the diagram below.

PCS	A	B	C	D
WEEE Collected (tonnes)	100	115	20	n/a
Net cost (£)	£10,591	£12,612	£1,813	n/a
Net cost per tonne (£/t)	£105.91	£109.67	£90.65	n/a

Review auditors' opinion on all submissions

Identify and investigate apparent anomalies

- A3.8 The Administrator must be confident that no overstated or understated data has been submitted. The Administrator has the right to ask questions, request further information or request a full audit of data.
- A3.9 If the Administrator has any reason to believe data is misstated (in either direction), it may reject the submission.
- A3.10 A PCS is not informed if the Administrator rejects its data submission.

Step 3 – Calculation of weighted average net cost

- A3.11 The Administrator will then calculate the weighted average net cost per tonne for the stream of WEEE using data from only those PCSs that wish to use the Fee, as shown below.

PCS	A	B	C	D	Total
WEEE Collected (tonnes)	100	n/a	20	n/a	120
Net cost (£)	£10,591	n/a	£1,813	n/a	£12,404
Net cost per tonne (£/t)	£105.91	n/a	£90.65	n/a	£103.37

- A3.12 Data from PCSs that do not wish to use the Fee (PCSs B and D in this example) are discarded.

Step 4 – Calculation of Fee for each PCS

- A3.13 Finally, the Administrator will calculate the Fee for each PCS using the formula in Section 7. Example calculations for PCS A and C are shown below.

$$f_n = k_n \times (t_n - c_n) \times \left(1 + \left(\frac{t_n - c_n}{t_n} \right)^2 \right)$$

$$\text{A: } f_1 = \text{£}103.37 \times (120 - 100) \times \left(1 + \left(\frac{120 - 100}{120} \right)^2 \right) = \text{£}2,125 \equiv \text{£}106.24 \text{ per tonne}$$

$$\text{C: } f_1 = \text{£}103.37 \times (120 - 20) \times \left(1 + \left(\frac{120 - 20}{120} \right)^2 \right) = \text{£}17,515 \equiv \text{£}175.15 \text{ per tonne}$$

- A3.14 In this example, PCS C will pay a higher Fee per tonne than PCS A. This is because PCS A collected 83% of its target, while PCS C collected 17% of its target.
- A3.15 Both PCSs pay a Fee in excess of the weighted average cost of collection (£103.37 per tonne). Both have incurred a financial loss by paying the Fee instead of collecting their full target of WEEE.

Appendix 4

Pro forma template for collecting cost information from PCSs

Template (attached to this report in Excel format for ease of use)

PCS NAME				
SHORTFALL / SURPLUS	Target WEEE collection target	Evidence Total WEEE Evidence received		
Unit	tonnes	tonnes		
1 January to 31 December 2014 - For submission on or before 28 February 2015				
A - Large Household Appliances				
B - Cooling Appliances Containing Refrigerants				
C - Display Equipment				
D - Lamps				
E - Small Mixed WEEE				
F - Photovoltaics				

NET COST OF DIRECTLY COLLECTED WEEE	Collected Amount of WEEE directly collected	Costs Total direct costs of collection, transport and treatment	Income Gross income from resale or reuse of parts	Net cost Total direct costs minus gross income
Unit	tonnes	£	£	£
1 January to 31 December 2014 - For submission on or before 28 February 2015				
A - Large Household Appliances	n/a	n/a	n/a	n/a
B - Cooling Appliances Containing Refrigerants				£0.00
C - Display Equipment				£0.00
D - Lamps				£0.00
E - Small Mixed WEEE				£0.00
F - Photovoltaics				£0.00

Instructions for completion of template

- A4.1 This template is intended to capture the costs and revenues attributable to the direct collection of each stream of WEEE in the period specified.
- A4.2 Costs and revenues should be entered into the template if and only if they are direct, incremental and avoidable in relation to the collections of that stream of WEEE undertaken in the period.

- A4.3 Direct collections are those under the direct control of the PCS, where the PCS has been contracted to undertake and directly manage the collection and treatment activity and can choose the collection and treatment providers. Costs relating to evidence obtained through other routes (e.g. directly purchased from AATFs or third parties such as PCSs or waste management companies contracting with AATFs), where the PCS has not been contracted to undertake and directly manage the collection and treatment activity and cannot choose the collection and treatment providers, should not be included.
- A4.4 Direct, incremental and avoidable all relate to the same concept:
- (1) **Direct:** Direct, or variable, costs and revenues are those that change in proportion to the amount of WEEE collected by the PCS.
 - (2) **Incremental:** Incremental, or marginal, costs and revenues are those additional costs and revenues that arise as further WEEE is collected.
 - (3) **Avoidable:** Avoidable, or separable, costs and revenues are those that could be eliminated if the WEEE was not collected.
- A4.5 Overhead costs, like management, HR, administration, IT, marketing and rent, do not meet the definitions above and should not be included.
- A4.6 Submitting only selected transactions is not acceptable. All transactions meeting these criteria must be included.
- A4.7 Cross-subsidisation of costs and revenues between streams is not acceptable. All costs and revenues relating to each stream should be included in that stream.
- A4.8 Examples of costs and revenues that meet these definitions are given in the further instructions below.
- A4.9 If you have any further questions or need to modify the template in any way, please consult the Administrator.

WEEE collection target

- A4.10 Please enter the exact household WEEE tonnage target for each stream. This should be the target as advised by the relevant environment agency.

Total WEEE evidence received

- A4.11 Please enter the exact household WEEE tonnage that the PCS has received evidence for, as recorded on the settlement centre. This may be different from the amount of WEEE directly collected, as it may include WEEE indirectly collected through other routes (e.g. directly purchased from AATFs or third parties such as PCSs or waste management companies contracting with AATFs). This will be used to calculate the shortfall against the target.

Amount of WEEE directly collected

- A4.12 Please enter the number of tonnes of household WEEE in each stream directly collected in the period specified. Direct collections may be from DCFs, or under Regulations 43 or 52.
- A4.13 Tonnages should be entered to three decimal places (i.e. do not round to the nearest tonne).

Direct costs of collection and treatment

- A4.14 Please enter, in GBP, the direct, incremental and avoidable costs associated with collections undertaken for each stream in the period specified. Direct costs may include:
- (1) transport costs;
 - (2) container costs (e.g. rental, depreciation or empty container delivery costs);
 - (3) other collection costs;
 - (4) treatment costs;
 - (5) environmental levies (e.g. waste transfer or consignment notes); and
 - (6) any other categories that meet the definitions of direct, incremental and avoidable above.
- A4.15 Please provide as much information as possible here. If you are not able to separate transport and treatment costs from other direct costs due to your cost structure, please provide the total.
- A4.16 Please advise the Administrator if data submitted includes any related party transactions (e.g. if WEEE is treated at an AATF owned by the same parent company as the PCS). The Administrator will consider the related party nature of such transactions.
- A4.17 If you are not able to separate costs and income for a WEEE stream, please leave this section blank.

Income

- A4.18 Please enter, in GBP, any revenues associated with directly collected WEEE. Revenues may relate to:
- (1) reuse of EEE;
 - (2) sale of material parts; and
 - (3) any other income that meets the definitions of direct, incremental and avoidable above.
- A4.19 Please include all income, including any income redistributed to local authorities or others.
- A4.20 If income for a stream is zero, please enter 0.

- A4.21 If you are not able to separate costs and income for a WEEE stream, please leave this section blank.

Net cost

- A4.22 If you were able to complete both the cost and income sections, this section will calculate the net cost automatically. No further data is required.
- A4.23 If you were not able to complete both the cost and income sections, please enter here the overall net cost associated with each stream of WEEE. Ensure that all costs and revenues that comprise net cost meet the definitions of direct, avoidable and incremental above.”

Appendix 5

Independent review of PCS data submissions

- A5.1 PCSs will arrange for an independent review of the submitted data. A registered auditor will be engaged by each PCS to provide limited assurance on whether the net cost data provided is true and fair in accordance with a set of agreed upon procedures. The auditor should undertake this engagement in accordance with all relevant International Standards on Auditing (ISAs)
- A5.2 The auditor should provide a short independent review report for submission to the Administrator.. This report should provide an opinion on the net cost data submitted. An unqualified opinion should be worded as follows:

“Based on our work, nothing has come to our attention to refute the directors’ confirmation that the net cost data submitted gives a true and fair view of the PCSs’ activities for the compliance period ended 31 December 2014 and has been properly prepared in accordance with Generally Accepted Accounting Practice in the UK/the Financial Reporting Standard for Smaller Entities/ International Accounting Standards ”

Appendix 6

Restrictions and limitations

Restrictions

- A6.1 This report has been prepared solely for the benefit of the JTA for use for the purpose described in the introduction. FTI Consulting accepts no liability or duty of care to any person other than the JTA for the content of the report and disclaims all responsibility for the consequences of any person other than the JTA acting or refraining to act in reliance on the report or for any decisions made or not made which are based upon the report.

Limitations to the scope of our work

- A6.2 This report contains information obtained or derived from a variety of sources. Where appropriate FTI Consulting has been given assurances regarding the reliability of those sources and information provided. However, we have not sought to independently verify the information we have reviewed.
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**Proposal to the Department of Business
Innovation and Skills**

**Operation of a WEEE Compliance Fee for the
2015 Compliance Period**

Appendix 2

September 2015



UK WEEE regulations - Economic assessment of the 2014 compliance fee system and potential future changes

A REPORT PREPARED FOR JTA

September 2015

UK WEEE regulations - Economic assessment of the 2014 compliance fee system and potential future changes

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Summary

Frontier Economics has been asked by the Joint Trades Association (“JTA”) to review the economic effects of the compliance fee regime introduced under the UK WEEE Regulations 2013.

The UK Waste Electrical and Electronic Equipment (“WEEE”) regulations¹ (the “UK WEEE Regulations 2006”) were introduced in 2006 with the objective of reducing the environmental impact of electrical and electronic equipment (“EEE”). To encourage this, producers of EEE (through their Producer Compliance Schemes, “PCSs”) were required to fund the transport and treatment of WEEE. However, the way in which this requirement was implemented led to PCSs being in a “must buy” situation when presented by a third party with evidence of WEEE having been treated. In turn, this led to high prices for such evidence, considerably in excess of the true economic costs of transport and treatment. These costs would likely have been passed on to UK consumers of EEE, since they reflected a cost of EEE being placed on the market.

An update to the UK WEEE Regulations in 2013 (the “UK WEEE Regulations 2013”) sought to avoid this concern by introducing the possibility of a compliance fee – whereby a PCS that was short of its target could meet that target through paying the compliance fee rather than from purchasing evidence. Depending on how the compliance fee was calculated, this had the potential to remove the must buy character of the previous regime and so reduce the extent to which WEEE evidence prices were above their true economic costs.

In 2014, BIS invited proposals for a compliance fee to apply for the 2014 compliance year and selected a proposal from the JTA. This proposal calculated the compliance fee for each WEEE stream based on the industry weighted average costs of transport and treatment in that stream – but only based on the costs of potential users of the compliance fee, and where those users had contracted for transport and treatment of WEEE themselves (“internal” costs) rather than purchasing evidence from a third party (“external” costs). This base fee was then subject to an escalator, so that the compliance fee was greater the more that a PCS missed its targets.

BIS is now currently seeking proposals on the appropriate form and nature of a compliance fee to apply in the 2015 compliance year, and will consult on all proposals received. We have considered the economic argument for setting a compliance fee and potential alterations to the compliance fee mechanism adopted for the 2014 compliance year. Our conclusions are as follows.

¹ The EU WEEE Directive was transposed into UK law by the Department of Trade and Industry as the Waste Electrical and Electronic Equipment Regulations 2006 (“the UK WEEE regulations”).

- **Retaining a compliance fee is essential.** We have considered other changes made in the UK WEEE Regulations 2013, such as the introduction of a target that was not identical to 100% of the WEEE collected. We find that, from a theoretical perspective, the compliance fee is the critical aspect in achieving beneficial economic outcomes – in the sense of ensuring that prices for WEEE evidence are close to true economic costs. We therefore consider it is essential that a compliance fee is retained.
- **Using the compliance fee raised to provide funding for WEEE recycling improvement projects is likely to be the best way to encourage greater WEEE collection, recycling and reuse rates.** The vast majority of WEEE that is collected and treated would be collected and treated in any event irrespective of the level of the compliance fee. High compliance fees are much more likely to result in the creation of economic rents and the diversion of existing WEEE between parties, rather than in the generation of new WEEE.
- **The evidence shows that the compliance fee employed in 2014 has had a beneficial economic effect.** We have found that the premium paid for external evidence fell from 70%-80% to 10%-20%. (The ranges reflect the need not to reveal confidential data in relation to each PCS.) This suggests that even the anticipation of the introduction of a compliance fee had a material and beneficial effect on ensuring WEEE evidence prices were close to true economic costs.
- **The form of escalator employed in 2014 is working well and we do not consider that there would be any objective economic benefit from changing it.** A good escalator will only gradually rise if a PCS fails to meet its targets by a small amount for a specific stream, as this does not substantially penalise PCSs that have attempted to meet their targets but fallen just short. A good escalator will also rise more sharply if there is a substantial shortfall, which would discourage attempts to avoid meeting the target. The escalator used for the 2014 compliance year met these criteria.
- **Those who collect more than their obligations should not receive payments from compliance fees paid by those collecting less than their obligations.** This would incentivise the diversion of WEEE from those collecting less than their target to those collecting more than their target, creating economic rents (due to the escalator) without incentivising additional collections.
- **Any WEEE stream with positive net value should attract a zero compliance fee.** There will be a market for the collection, transport and treatment of such WEEE, and it is likely that much of this takes place

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outside the “official” WEEE system. It would not be sensible to penalise PCSs for missing their targets when the WEEE is being collected, transported and treated in any event.

- **Individual PCSs net positions should not be published.** It is helpful for the purpose of the compliance fee mechanism that providers of evidence do not know which PCSs are short in which streams and by how much. This avoids the creation of a focal point at some anticipated price above true cost (due to the escalator).
- **It would be helpful to have the same compliance fee regime in place for several years, if it gave rise to good economic outcomes.** This would reduce the administrative burden on BIS and stakeholders and ensure that all parties knew that for (say) 3-5 years prices would be expected to be close to true economic costs. This would encourage more economically efficient decisions.
- **There is no advantage (and several disadvantages) to using prices traded on an exchange to set a compliance fee.** This would likely reveal individual PCSs’ net positions and give rise to focal points for the trading of WEEE above true economic costs.
- **Trading off net positions across streams would lead to it being impossible to set stream by stream targets.** If PCSs could trade off over-collections in one stream with under-collections in another, this would make it impossible to encourage collections in each WEEE stream.

As a result, we consider that the 2014 compliance fee approach should broadly be retained in 2015, subject to the minor changes of i) using the same regime (if it leads to good economic outcomes) over several years, and ii) clarifying that any WEEE stream with a positive net value should attract a zero compliance fee.

1 Background

The UK Waste Electrical and Electronic Equipment (WEEE) regulations² (the “UK WEEE Regulations 2006”) transposed the European Directive 2002/96/EC into UK law (the “First WEEE Directive”³). They were introduced in 2006 with the objective of reducing the environmental impact of electrical and electronic equipment (“EEE”), when it becomes waste, both in volume terms and in terms of its potential hazardousness. In December 2008, the European Commission proposed to revise the Directive in order to tackle the fast increasing waste stream. European Directive 2012/19/EU (the “Second WEEE Directive”⁴) was transposed into UK law in 2013 (the “UK WEEE Regulations 2013”).⁵

In addition to covering the points raised in the Recast WEEE Directive, there were also other substantive changes to the regulations which were a response to concerns that the UK WEEE Regulations 2006 had resulted in adverse effects on producers through their Producer Compliance Schemes (“PCSs”). Most relevant to the issues explored in this report, which looks only at household WEEE, was the introduction of a compliance fee, whereby PCSs could choose to comply with their obligations through a combination of collecting, transporting and treating WEEE (or demonstrating that they had paid someone else to do so), as well as by paying the compliance fee.

By way of background, section 1 explains the economic issues arising from the UK WEEE Regulations 2006 and the relevant changes proposed in the UK WEEE Regulations 2013. Section 2 explains why the introduction of a compliance fee was expected to have beneficial effects and explores whether these effects have materialised.

1.1 The UK WEEE Regulations 2006

Since the implementation of the First WEEE Directive in the UK, the UK WEEE Regulations have required producers of EEE to finance the costs of collecting, treating and disposing of waste from their own products. In order to understand the economic implications of the UK WEEE Regulations 2006 in relation to household WEEE, the main points are as follows.

² The EU WEEE Directive was transposed into UK law by the Department of Trade and Industry as the Waste Electrical and Electronic Equipment Regulations 2006 (“the UK WEEE regulations”).

³ See Directive 2002/96/EC of the European Parliament and the Council, 27 January 2003.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0019&from=EN>

⁵ <http://www.legislation.gov.uk/uksi/2013/3113/contents/made>

1. Consumers were able to dispose of items of WEEE through a number of different channels including designated collection facilities (“DCFs”), distributor take-back arrangements, or EEE producers’ own arrangements. WEEE that was collected could be sent for treatment at an authorised treatment facility (“ATF”) or exporter.
2. Each producer of EEE was legally required to fund the treatment of a share of the total obligated WEEE that was collected.⁶ The share of obligated WEEE of a given category that each producer had to finance was equal to its market share of EEE of that category in that year.
3. Producers were required to discharge these responsibilities by joining a PCS, a collective scheme financing the WEEE responsibilities of multiple producers. The obligation of a PCS was the sum of its members’ obligations. PCSs met their obligations through the collection of evidence, either issued by treatment facilities for arrangements made by that PCS or obtained from other PCSs which had arranged treatment.
4. A PCS, and its members, would be in breach of the WEEE regulations unless that PCS could show, at the end of each compliance year that it owned evidence that demonstrated that it had financed the treatment of its apportioned share of obligated WEEE.
5. Producers or PCS’s in breach could have faced enforcement proceedings (potentially including criminal enforcement proceedings and substantial fines).

1.2 Economic consequences of the UK WEEE Regulations 2006

The most important of these points from the perspective of the prices paid for evidence was item 2 above. This is because every tonne of WEEE collected, transported and treated created evidence and a buyer for that evidence simultaneously. This is shown by the following example.

- Suppose there are two PCSs, whose members account for 75% and 25% of all EEE placed on the market.⁷
- Suppose that 1000 tonnes of WEEE are expected to be collected.

⁶ Obligated WEEE is defined as WEEE delivered into an ATF or AE by or on behalf of a PCS.

⁷ For simplicity we assume that there is only one WEEE stream although this does not affect the analysis. Similarly there is nothing special about the choice of a 75%/25% split or the choice of total tonnes collected.

- The first PCS must demonstrate that it has evidence corresponding to 750 tonnes of WEEE collected and treated. The second PCS must demonstrate evidence corresponding to 250 tonnes of WEEE collected and treated.
- Suppose that each PCS has managed to collect the right tonnage of evidence based on the expected level of WEEE, but that late in the compliance year another 100 tonnes of WEEE are collected, transported and treated by a third party who makes an arrangement with the second PCS to receive the resulting evidence.
 - The first PCS must now buy 75 tonnes worth of this evidence from the second PCS; otherwise it is in breach of its obligations under the UK WEEE Regulations 2006.
- Being in breach of the UK WEEE Regulations would be a criminal offence and highly damaging for the first PCS and its producer members.
- The second PCS is therefore in a strong bargaining position, as it will know that it has a buyer who must buy from it or face severe sanctions. The third party is in an equally strong bargaining position because they can charge a high price for this evidence to the second PCS, unrelated to the costs of collection, transport and treatment, and the second PCS can simply seek to pass this high price onto the first PCS who must buy this evidence.

This logic did not just relate to “incremental tonnage” as in the simple example above, but applied to any WEEE collected, due to the rule that any tonne of WEEE collected created an obligation to purchase by obligated PCSs. In other words, there was no opportunity for a PCS who required additional evidence to say “no” to a seller of evidence – there was always a buyer for any evidence.

Since the obligation applied to WEEE collected, access to WEEE became a source of value. This was because if an undertaking had control of a certain amount of WEEE, it would be able if it so chose to transport and treat that WEEE in order to generate the evidence. Alternatively, it could sell the WEEE to a PCS to contract for the transport and treatment itself. However, the price at which the undertaking would be prepared to sell the WEEE took into account the fact that if it transported and treated the WEEE itself it would create valuable evidence, and so the prices of WEEE and of evidence would end up being broadly equivalent (they would be expected to differ by approximately the cost of transport and treatment).

As a result, there were two key economic consequences of the regulations.

- First, prices for evidence (and WEEE) were unrelated to, and considerably in excess of, the costs of collection, transport and treatment.

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- Second, there was an incentive for parties to acquire rights to streams of collected WEEE (for instance by offering attractive prices to Local Authorities for access to their DCFs) as these streams were highly valuable. This is irrespective of any producer obligations under the WEEE Regulations.

Ultimately, the excessively high prices would have been expected to feed through into higher prices for consumers. While the direct impact of these costs is on producers of EEE, those producers would recognise that a cost of placing EEE on the market was the WEEE obligation that it generated, and hence one would expect the vast majority of these market-wide costs would likely have been passed on to consumers in the upfront price of the EEE.

1.3 The UK WEEE Regulations 2013 – key changes

The UK WEEE Regulations 2013 introduced a number of changes to update the previous regulations for the Recast WEEE Directive, and also other issues. The main changes are summarised in the Government Guidance note of March 2014.⁸ From the perspective of the issues covered in this report, the key changes were the following:

- First, each PCS's obligation to finance the treatment of WEEE was changed to relate to a proportion of the total annual household WEEE collection target, instead of being exactly equivalent to the total amount of household WEEE actually collected in that year. The obligation for each PCS is based on the share of its producer members' sales of EEE in the prior year.
- Second, the introduction of a compliance fee that PCSs could pay as an alternative method of compliance with their obligations (i.e. a PCS could pay the compliance fee if it had not met its targets for financing the collection, transport and treatment of household WEEE).

Reflecting these key changes the new system is called the “target and compliance fee” system.⁹ Other significant features of the new system are the following.¹⁰

⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/292632/bis-14-604-weee-regulations-2013-government-guidance-notes.pdf

⁹ Implementation of the WEEE Recast Directive 2012/19/EU and changes to the UK WEEE system – Government Response, Department for Business, Innovation & Skills, October 2013.

¹⁰ In addition, there was a change to the categorisation of “dual use” waste from businesses (which in practice means that WEEE from business premises could be considered to be household WEEE rather than non-household WEEE, if it could be used by a householder). This has had the effect of increasing the tonnage of WEEE from business sources considered to be household WEEE.

- If a PCS collects WEEE above its obligation, it has the responsibility of financing the treatment of the excess amount¹¹.
- PCSs continue to be obliged to collect and finance the treatment of WEEE from a Local Authority DCF if requested to do so by the DCF, even if this leads to them exceeding their target.¹²

The two key changes (in combination with the other features of the system listed above) both address the distortion caused by the “must-buy” characteristic of the previous system which led to prices materially above economic costs. We outline the reasons for this below. **To summarise, we find that the compliance fee is the crucial element that is required to achieve more cost-reflective prices for WEEE.** The change in how the PCSs’ individual obligations (i.e. their collection targets) are determined is an important step towards this goal, but would be in many circumstances insufficient on its own.

1.3.1 Economic effects of the compliance fee

The compliance fee was introduced with the following aim:

“The existence of a compliance fee is intended to discourage PCSs from collecting WEEE significantly above their targets and then seeking to sell that surplus at excessive prices to PCSs that are short of their target amount in any category for which they have obligations.”¹³

The compliance fee is intended to achieve this goal by providing a PCS that is short of its target an alternative way to fulfil its targets other than from purchasing evidence from others.^{14,15} Such a PCS can instead pay the compliance fee as an alternative way of meeting its obligations.

¹¹ In case it makes a profit from the excess amount, the PCS is permitted to keep it.

¹² The exception is if the DCF has previously notified BIS that they are managing and financing the collection and treatment of a particular WEEE stream.

¹³ See WEEE Regulations 2013 – Guidance on submitting proposals for a WEEE Compliance Fee Methodology, Department for Business, Innovation & Skills, July 2015.

¹⁴ BIS does not allow the trading of evidence once issued to a PCS. We understand that the consequence of this is that exchange of evidence now happens prior to issuance to a PCS. As a result, whether traded or transferred, this does not itself have any material economic effects and in the absence of a compliance fee (and to a lesser extent a target) the must buy character of the UK WEEE Regulations 2006 would remain. For the purposes of this report we refer to the transfer of evidence for simplicity.

¹⁵ While not knowing the exact quantities they will be able to collect and treat themselves at the negotiation stage, PCSs know what channels of WEEE they are likely to have access to (e.g. retailers or DCFs) and whether the amount collected through those channels will likely allow them to achieve their collection target (or give them a significant surplus). For simplicity, we refer to the contractual arrangements between PCSs as purchasing of WEEE evidence.

If an over-collector of evidence chooses not to offer it to a PCS at a price which the PCS thinks might be below the compliance fee, the PCS would have the choice to avoid paying what it considered to be excessively high costs by choosing to pay the compliance fee instead, leaving the over-collector holding the evidence (and potentially bearing all the transport and treatment costs for the surplus WEEE if it fails to find a buyer). This gives over-collectors an incentive to offer a price for evidence below the anticipated level of the compliance fee.

There is also a potential scenario where the overall level of UK collections is below the level of the target. It may not always be the case that achievable targets have been set, so the compliance fee provides a safety valve to ensure that PCSs are not penalised excessively where the target turns out to have been set too high.

To avoid prices for all evidence simply being set at the anticipated level of the compliance fee, rather than at the competitive (cost-reflective) level, the level of the compliance fee is not known at the stage of negotiations between those PCSs who collect more than their obligations and those PCSs who collect under their obligations. There is further uncertainty as to the methodology that will be used to calculate it as that methodology is only applied for one year and is only published after the end of the compliance year.¹⁶ However, the following basic principles of the compliance fee methodology, if a compliance fee is to be used, are known in advance.¹⁷

- The fee is WEEE stream specific.
- It should consider the various costs of collecting and treating the different WEEE streams.
- It should be set at a level that encourages PCSs to take all reasonable steps to fulfil their financing obligations by collecting and treating WEEE instead of by paying the compliance fee.

The effectiveness of the compliance fee in keeping prices for evidence close to their economic costs will depend on the exact way it is calculated. There are three potential situations.

¹⁶ The Secretary of State approves the methodology for the compliance fee on an annual basis – with methodology proposals being accepted until 30 September of the compliance year and BIS announcing the selected methodology by mid-February the following year.

¹⁷ See WEEE Regulations 2013 – Guidance on submitting proposals for a WEEE Compliance Fee Methodology, Department for Business, Innovation & Skills, July 2015. Note that setting a compliance fee is an option available to the government and not a foregone conclusion. Even if the industry expects a compliance fee to be used with a high probability, there is still a possibility that no compliance fee may be set, and one would expect this uncertainty to be reflected in market outcomes.

If the compliance fee is known in advance

If the compliance fee is known in advance, it will set a maximum price for evidence. If the compliance fee is close to costs this will by itself be sufficient to ensure that prices for evidence are kept at levels close to costs. In this case, the fee would likely be based on historic costs as it would not be possible for it to both reflect current costs and be known in advance. Assuming that there is no material change in costs from year to year, the excess prices for evidence (and economic rents) observed under the previous system would no longer arise.

If the compliance fee was at a level similar to the prices for evidence that prevailed under the UK WEEE Regulations 2006, then this would likely lead to no beneficial reduction in prices for evidence, and (ultimately) higher prices for consumers.

Generally, if the exact level of the compliance fee is known in advance, one would expect this to become a focal point for negotiations around evidence, and that increasing proportions of the evidence in the market would change hands at or around the level of the compliance fee.

When the exact level of the compliance fee is unknown

Under this scenario, which reflects the reality of the 2014 compliance fee mechanism, there are similar results compared to the situation when the compliance fee is known with certainty. Third party collectors will be incentivised to offer evidence at prices below the anticipated level of the compliance fee. Since this is not known exactly – and in practice will vary from PCS to PCS and stream to stream – there will be an element of uncertainty in these negotiations. This will encourage third party collectors to offer prices closer to costs in order to make a deal, as they would not wish to be stuck with evidence that they have transported and treated (and so incurred costs). Similarly it would encourage PCSs with shortfall to make a deal.

This holds true to the extent that the compliance fee is expected to be calculated in a way that broadly reflects costs. If the compliance fee was expected to be at a level similar to the prices for evidence that prevailed under the UK WEEE Regulations 2006, then this would likely lead to prices for evidence being at broadly the same (high) levels. Again there will be greater uncertainty in the negotiation process and so prices may be higher or lower than this level.

Since there is an additional escalator, depending on the extent to which a particular PCS is short of its target, PCSs will continue to have an incentive to meet their targets.

If there is no compliance fee

For completeness, if there were no compliance fee, the situation returns to the “must-buy” condition on PCSs who fall short of their collection target. Evidence

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can therefore again be sold at prices which do not reflect the cost of collection, transport and treatment, with consequential effects on the end price of EEE for consumers.

1.3.2 The impact of an overall target not directly related to collections

Under the UK WEEE Regulations 2013 PCSs' targets are no longer set based on the total amount of WEEE collected. Instead, the obligation of PCSs to finance the treatment of WEEE is set as a proportion of the total annual WEEE collection target. This overall target is set separately by BIS for each stream of WEEE by the end of March in the relevant collection year. The change means that the targets for individual PCSs cannot change during a regulatory year, as they could previously if additional WEEE was collected.

We have explored the likely economic consequences of this change. To isolate the impact of this factor, we assume in the analysis below that there is no compliance fee. We find that the impact on prices paid for evidence will vary according to the level of the target relative to the total amount collected.

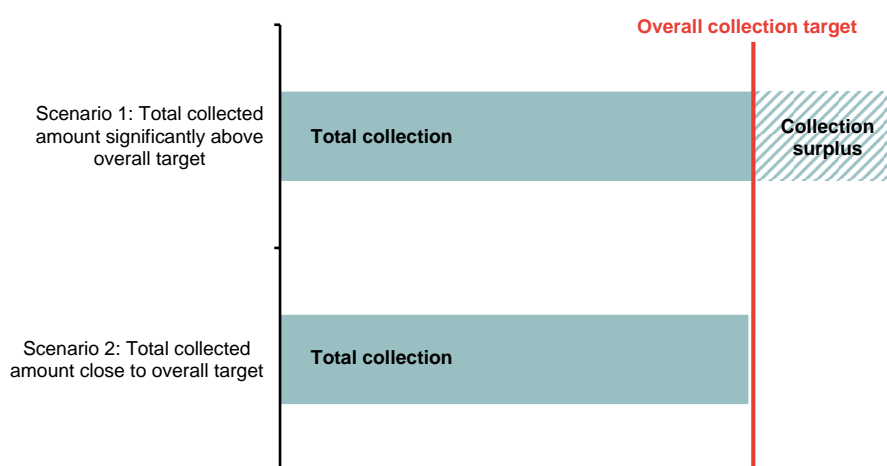
- **Scenario 1 – the total amount collected is significantly above the overall target.** In a situation where the total amount of WEEE collected significantly exceeds the overall collection target (see scenario 1 in **Figure 1** below), any PCSs that are still short of their individual target may well be in a good position to negotiate a cost-reflective price for evidence. This is because there is plenty of WEEE (or evidence) available that can be sold (see “collection surplus” in **Figure 1** below) and PCSs with a shortfall are likely to have several potential sellers they can negotiate with. In contrast to the situation in the UK WEEE Regulations 2006, sellers have no guarantee that there will be a buyer for their evidence and they have an incentive to try to sell any surplus evidence they have generated (unless the stream has a positive net value) as they will otherwise have to bear the costs for transport and treatment.

This logic does not necessarily apply in a situation where a large proportion of the WEEE is in the hands of one or a few sellers (who could then generate evidence). If an individual seller knew that at least a proportion of its evidence was required in order for a particular PCS to meet its targets, then it would be back in a “must buy” situation. For instance, if the collections of a particular stream were 8% above the target, and one seller had 10% of the total evidence for that stream, that seller would know that at least one PCS would have to come to it to meet its obligation, as the remaining evidence available only met 98% of the target.

- **Scenario 2 – the total amount collected is close to or below the overall target.** Where the overall collection target is almost met or not met in aggregate (see scenario 2 in **Figure 1** below), any PCS with a shortfall is

likely to find itself in a “must-buy” situation in the absence of a compliance fee. If some PCSs have collected far more than their individual targets, they will have substantial bargaining power over those PCSs that are still falling short of their target. This is because PCSs with a shortfall are likely to have exhausted all reasonable options to access evidence directly and contracting with another PCS that has a collection surplus is the only way to avoid high penalties for non-compliance (absent a compliance fee). The situation is similar if the total collected amount is significantly below the overall target, although in that situation there will always be one or more PCSs that cannot make their targets.

Figure 1. Overall collection target vs. total collected amount – illustration of two possible outcomes



Source: Frontier Economics

Both scenarios set out above highlight that there could still be a concern about excessive prices for evidence if there was a target system only, and no compliance fee. **The existence of the compliance fee – based on a methodology that gives prices close to economic costs – is thus critical for ensuring that prices for evidence are not excessive.**

1.4 The potential impact of the compliance fee on collection levels

Under the UK WEEE Regulations 2013, the compliance fee should be set such that PCSs are encouraged to fulfil their targets by collection rather than by fee payments. However, while the level of the compliance fee might have an impact on whether an individual PCS achieves its target by collection or by paying a fee, it cannot be expected to have a significant impact on the overall level of WEEE

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collection in the UK, except if the fee was set an extremely high level (and even then we expect the effect would be small). This is for the following reasons.

- First, for the compliance fee to have an effect on collection levels it would have to have an effect on the amount of WEEE that ends up in DCFs. This is because, for any WEEE that ends up in a Local Authority DCF, PCSs are legally obliged to collect and finance the treatment of the WEEE if asked, independent of whether the PCS is falling short or exceeding its target. As a result, once the WEEE is in the Local Authority DCF, it will be transported and treated and so will contribute towards meeting the UK target.

To the extent that WEEE ends up in private DCFs, one would also expect it to be transported and treated. Often the private DCF will have an existing contract with a third party to carry out transport and treatment, particularly for WEEE streams that have positive net value such as LHAs. A private DCF has to make sure that all WEEE is appropriately treated, but may not have an arrangement with a PCS, in which case it would not be counted as obligated WEEE. If it no longer became economic for a private DCF to collect certain WEEE streams, one would expect that WEEE to end up in Local Authority DCFs or with a retailer or other collector given that it is material that households will wish to dispose of.

Hazardous WEEE, such as fridges and TVs, will always be collected due to the regulatory requirements pertaining to those products.

- Second, the compliance fee is unlikely to have an impact on the amount of WEEE collected, except perhaps a small effect at very high levels.
 - Any WEEE that consumers decide to recycle will likely end up in a Local Authority DCF, a third party network or a reuse collection network. It would become obligated WEEE, either because consumers bring it directly to a Local Authority DCF or they give it to a third party or reuse collector (e.g. the retailer who delivers the replacement product may collect the WEEE and arrange for transport and treatment, due to its economic value).
 - It is highly likely that all large electrical appliances will end up in a DCF, or be recycled by other collectors. Many retailers will collect old WEEE when delivering new EEE. End of life EEE that is turned into scrap metal due to its economic value is not counted in the official WEEE figures because this is not AATF activity. However, BIS has recognised this and is looking to use WRAP's work on substantiated estimates of such activity to demonstrate UK compliance with WEEE Directive targets.

- It is likely that small WEEE (e.g. lamps or small items of mixed WEEE) that consumers do not recycle is likely to end up in the household rubbish collection and go to landfill, i.e. it will end up outside the WEEE recycling system. Changing the collection levels of these items probably requires a change in consumer behaviour, which is likely to be a long-term exercise.

The main effect of a high compliance fee (i.e. a compliance fee considerably in excess of the economic costs of collection, transport and treatment) would most likely generate substantial competition for the rights to WEEE already being collected, which would have no impact on the absolute levels of overall UK collections. A very high compliance fee might incentivise additional collections if it led to the market price for WEEE increasing to extremely high levels. At those prices it might be worth undertaking additional costly collection activities – for instance, a door-to-door system where collectors approach consumers individually at their homes and ask for any small mixed WEEE or lamps that consumers were not previously planning to recycle. Alternatively, additional collection points could be created in the hopes that these would stimulate additional WEEE being generated. However, we understand that these approaches are generally extremely expensive and are unlikely to generate material additional collections, as well as having an adverse environmental impact due to the additional emissions generated.¹⁸

Accordingly, the compliance fee itself is unlikely to generate material additional collections, whatever its level. If the compliance fee was very high, this would be more likely to incentivise PCSs (and other actors) to divert existing WEEE rather than to try to generate additional collections. An advantage of a compliance fee closer to costs is that it avoids presenting parties with an incentive to divert WEEE that is already in the system to them. Moreover, the current compliance fee proposal means fees are generated which can be used to encourage behaviour change on a larger scale through Local Authority and other eligible projects.¹⁹ **This appears to be the most promising route to generating more collections in the long term across the UK as a whole.**

¹⁸ Many also go beyond the scope of producer responsibility. Producers are not directly responsible for collection from homes but can collect in this way in order to try and reach their WEEE targets without needing to buy evidence from other sources.

¹⁹ At the request of BIS, the JTA proposal will make funds available to other initiatives that can enhance UK collection levels, in addition to Local Authority projects.

1.5 The compliance fee methodology approved for the compliance year 2014

The methodology BIS approved for the compliance year 2014 had the following key features.

- Fees differed across streams. The fee was based on the weighted average net cost of transport and treatment incurred by certain PCSs in each stream. The costs included were the direct, incremental and avoidable net costs of transporting and treating WEEE in that stream. The use of net costs took into account that the recycling of WEEE might generate not just costs but also revenues, if parts can be reused or valuable scrap metal can be recovered (the extent to which this is relevant will vary across streams and is most important for large household appliances, “LHA”).
- Data would only be included from those PCSs that fell short of their target for that specific stream and therefore used the compliance fee. This was to avoid the risk that costs submitted by non-users might have been inflated with the intention to increase the fee to users. Cost data submissions by PCSs not using the fee in a specific stream would only be used for sense checks and would not be included in the calculation.
- For streams with a positive net value (e.g. LHA currently has a positive net value, although this is falling as scrap values decline) the compliance fee was zero. In the case of LHA, the fee was set to zero in line with the JTA 2014 Proposal as it is widely accepted that the stream has a positive net value on average (even though some PCSs – potentially including those that might want to use the fee – might incur net costs as a result of having to collect from remote areas, which is more costly than the average).
- The methodology for the compliance fee was only published after the end of the compliance year 2014. Moreover, no data has been published on the level of the compliance fee or which PCSs have used the fee.
- The mechanism included a non-linear escalator, i.e. the fee per tonne became increasingly high the further below the collection target the PCS was. The maximum value was twice the base fee for zero collection or failure to submit cost data. The escalator was included to encourage compliance by collection rather than by paying a fee. The escalator also had the effect that the compliance fee for any stream would differ across PCSs, depending on how far short of their target they were.

The specific formula used to calculate the fee was as follows:

$$f_n = k_n \times (t_n - c_n) \times \left(1 + \left(\frac{t_n - c_n}{t_n} \right)^2 \right)$$

Where:

f_n : the fee for the relevant stream, in GBP.

k_n : the weighted average net cost of collection for the stream, in GBP per tonne.

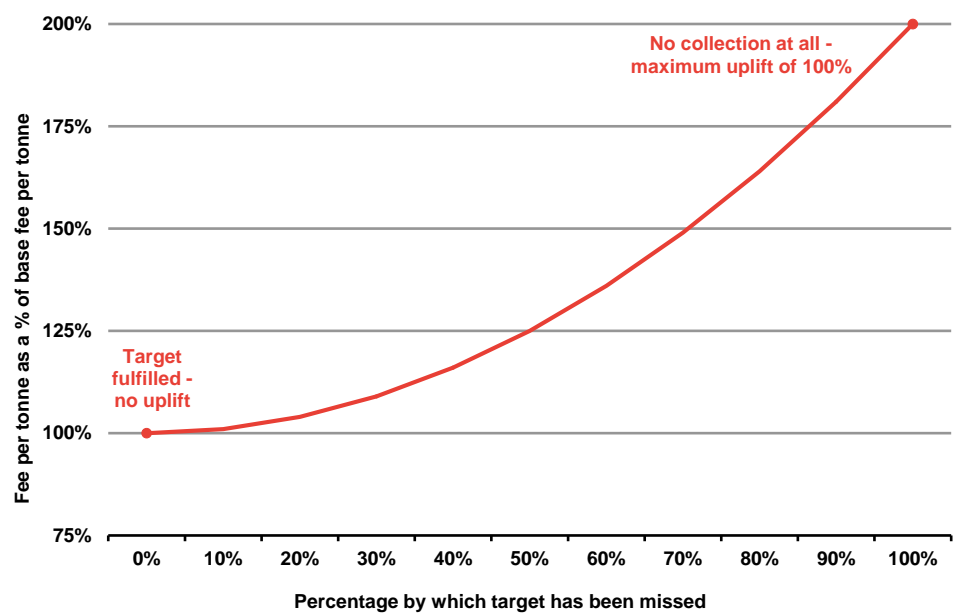
t_n : the PCS's target for the stream, in tonnes.

c_n : the amount of the stream of WEEE collected by the PCS, in tonnes.

The escalator (the squared term in the formula above) ensured that collecting and treating WEEE was more attractive than paying the fee, by raising the fee above the costs the PCS would have incurred for collecting and treating its full target amount of WEEE. The escalator increased the further the PCS was below target (see **Figure 2** below), e.g.

- ▣ if a PCS only fell short of the target by 2%, it only faced an uplift of its fee per tonne by less than 1% of the costs; and
- ▣ if a PCS had hardly collected and treated any WEEE and was 95% short of its target, its fee per tonne almost doubled.

Figure 2. Impact of the escalator in the 2014 methodology



Source: Frontier Economics based on JTA proposal 2014

2 Intended and actual effects of the changes to the previous regulations

From an economic perspective, the main aim of the changes introduced in the UK WEEE Regulations 2013 was to avoid excessive prices for evidence. At the same time, it was important to encourage PCSs to meet their targets through WEEE collections (rather than by only fulfilling their obligations through compliance fee payments). If the costs of evidence fell, this would ultimately benefit consumers through lower end EEE prices.

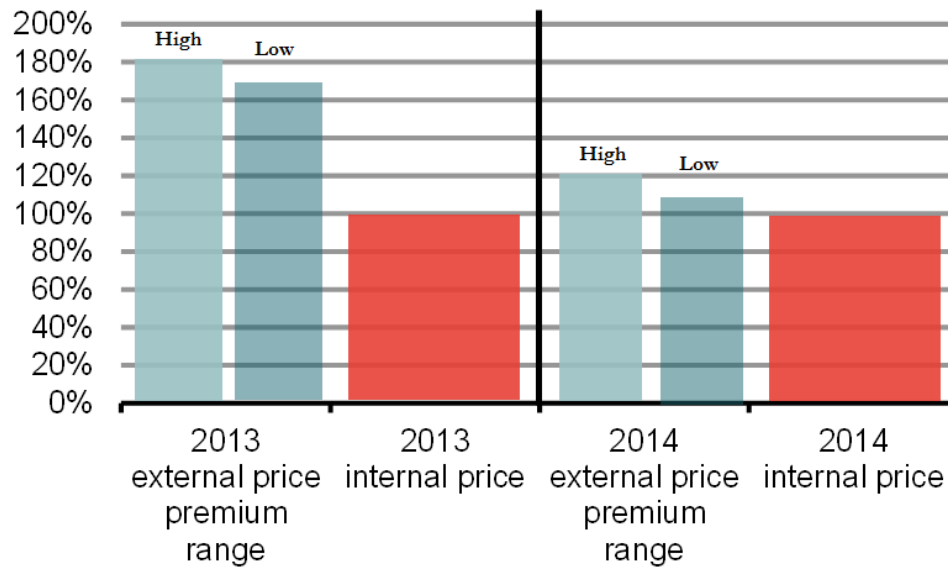
If the changes to the regulations achieved this aim, one would expect to see the average prices paid for external evidence (i.e. that purchased from PCSs/third parties) would become closer to the average prices paid by PCSs for internal evidence (i.e. the costs where PCSs has control of the WEEE and can competitively tender its transport and treatment).²⁰

To explore this, we have collected cost data for all streams from the PCS that support the JTA – REPIC, ERP and Recolight. The data collected has not been shared between the PCSs, and all discussions between Frontier Economics and individual PCSs have been made under nondisclosure agreements. In order to preserve the commercial confidentiality of the cost data, the results are shown only for aggregated data across all streams and all three PCSs. We also show only ranges rather than exact numbers.

This data shows that the expected developments indeed took place in the 2014 compliance year when compared with the 2013 compliance year. **The premium of the price for external evidence over the internal costs of transport and treatment reduced dramatically from, on average, around 70-80% to around 10-20% (based on weighted average prices across all streams and all three PCSs).** This is shown in **Figure 3**.

²⁰ We understand that PCS continue to tender for Local Authority DCF contracts and no Local Authority has been left without a PCS for its DCFs. We are also not aware of any validly made Regulation 34 requests from Local Authorities.

Figure 3. Premium of price for external evidence over internal costs, internal costs = 100% in each year



Source: Frontier Economics

The existence of a continuing small premium suggests that internal collection is still the most attractive option for PCSs.

Intended and actual effects of the changes to the previous regulations

3 Challenges to the current compliance fee methodology and their economic impact

This section explores issues that have been raised in relation to the current compliance fee approach, and explains their economic consequences. Several of these issues have been raised by other stakeholders in the WEEE sector.

3.1 Alternative escalator mechanisms

The extent to which the compliance fee is above the weighted average industry costs of transport and treatment for a particular PCS depends on the extent to which that PCS is below its target, and on the formula used to derive the escalator. In our view, an appropriate escalator will disincentivise serious avoidance of collection by PCSs, while avoiding the opportunity for material gaming²¹ of the system by encouraging over-collection.

Essentially, the steeper the curve of the escalator, and the higher the maximum level it can reach, the more risk there is of encouraging gaming. This is because if over-collectors can increase collections and raise the compliance fee to high levels, they may be able to sell at least some of their evidence at those higher levels.

Any escalator will encourage PCSs to meet their obligations by collection, as all escalators raise the compliance fee above the industry internal weighted average costs of transport and treatment. It may be the case that some PCSs are unable to meet their targets. In our view, it would not be appropriate to have considerable penalties where PCSs have engaged in significant efforts to meet the targets. However, it would be sensible for the escalator to provide a substantial penalty in the event that an individual PCS were actively to seek to avoid meeting its target.

As a result, we consider that a good escalator will only gradually rise if a PCS fails to meet its targets by a small amount for a specific stream, but will rise more sharply if there is a substantial shortfall.

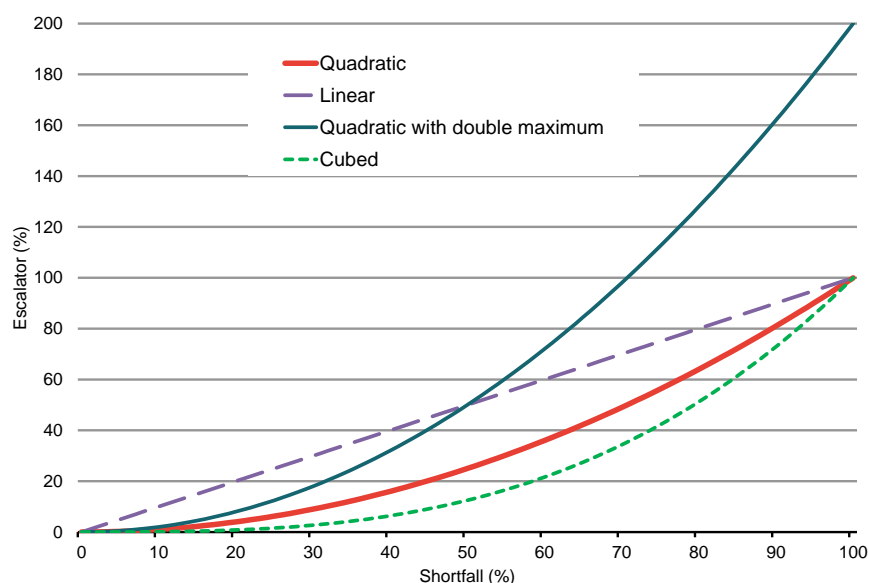
Whilst there are an infinite number of potential escalators, we have looked specifically at several potential shapes for the curve by way of example. The graphs below (**Figure 4** and **Figure 5**) show several different options for the compliance fee escalator. For the options in **Figure 4**, the starting point is always at zero, i.e. the compliance fee for the first unit of shortfall is only marginally

²¹ By gaming we mean that the way in which the current system is set up provides incentives for parties to exploit it to their advantage (in a perfectly legitimate manner but which gives rise to adverse economic effects, for producers and ultimately for UK consumers).

higher than the industry average weighted cost. We report the following curves (some of which have previously been suggested in various contexts):

- ▣ the **quadratic curve** as used in the 2014 compliance fee methodology with a maximum escalator of 100% of industry average weighted costs (red line);
- ▣ a **linear** relationship to the same maximum fee (this was included in the Dataserv, DHL, Transform, Valpak and Veolia 2014 proposal²²) (purple dashed line);
- ▣ a **cubic** relationship to the same maximum fee (green dotted line); and
- ▣ the **quadratic curve** where the **maximum** has been **doubled** to 200% of industry average weighted costs (teal line).

²² We have not included the other option in this proposal, which was a stepped approach. This is because if a PCS was facing a shortfall that would move them just into the next level fee, this would create a high marginal cost (as the materially higher compliance fee would then apply across their whole shortfall). These jumps would be arbitrary and would potentially lead to the ability of third parties to achieve high prices for evidence where PCSs are trying to avoid these high marginal increases.

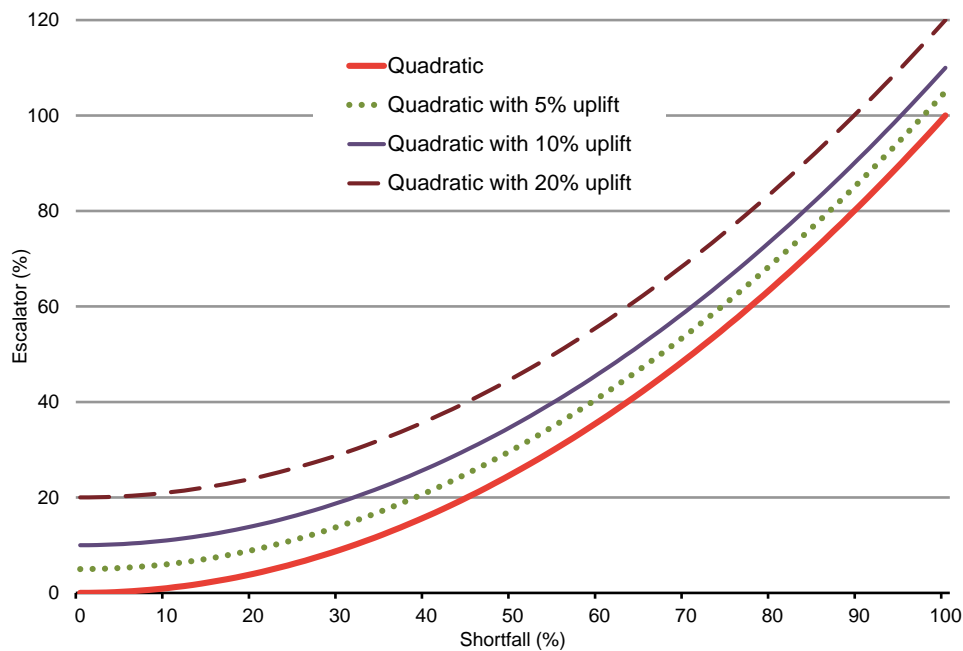
Figure 4. Alternative forms of escalator with a starting point of zero

Source: Frontier Economics

It can be seen that the effect of the linear escalator is considerably higher at low shortfall rates than either the quadratic or the cubic escalators. At the 5% shortfall level, the additional linear escalator costs PCSs 15-25 times more than the quadratic escalator. It therefore imposes a substantially greater penalty on PCSs that only marginally miss their collection targets. In contrast, the cubic escalator costs PCSs 15-25 times less than the quadratic escalator does (again at the 5% shortfall level).²³ At much higher levels of shortfall (e.g. 90%+) the additional costs under any of the escalators are broadly similar.

We have also considered escalators where the starting points are higher than zero – i.e. the first tonne of shortfall incurs a material uplift to the compliance fee. Examples of these are shown in **Figure 5** (compared to the existing metric).

²³ We have used data on the weighted average internal costs across all WEEE streams. We assume all PCSs miss their targets by 5%. We would be happy to share this modelling with BIS.

Figure 5. Alternative forms of escalators with higher starting points

Source: Frontier Economics

As above, we have considered the impact of these escalators on the total additional costs that would be incurred under various hypothetical levels of shortfall.

At the 5% shortfall level, the quadratic escalator with a 5% uplift costs around an additional 20 times the amount that the quadratic escalator would; the quadratic escalator with a 10% uplift costs around 40 times more; and the quadratic escalator with a 20% uplift costs around 80 times more. It can therefore be seen that any escalator with a non-zero start point means that for small shortfalls there is a very substantial uplift relative to the quadratic escalator with a zero start point.

In our view, when looking at the range of options, the 2014 proposal – the quadratic escalator with a zero start point (in bold red in both graphs) – strikes a good balance between the trade-offs outlined above, and there is no need to change it. This escalator rises slowly from zero, so does not materially penalise small shortfalls (although there is still some increase in costs above the industry weighted average). However, it then increases to a level that is sufficiently high to be a strong disincentive to actively avoid collection. Therefore, we consider the quadratic escalator should be retained.

3.2 Payments to those who collect more than their obligated level (from the compliance fee fund)

In the 2014 proposals submitted to BIS some stakeholders proposed that there should be a payment for those who collect more than their obligations that is paid out of the compliance fees collected, so that these over-collectors should be able to apply to recover costs they have incurred for WEEE collected over and above their scheme obligation. **In our view, this would be damaging without having offsetting benefits. If an over-collector knew that it would be guaranteed payment for its over-collection out of a corresponding compliance fee, this would encourage over-collection by individual PCSs.**

This would particularly be the case in WEEE streams where overall collections are close to (or at, or below) the target. Given that there is an escalator; increased levels of over-collection would lead to increased shortfalls elsewhere in the system, and hence higher compliance fees – which would then be partly paid out to over-collectors. This feedback loop would strongly incentivise over-collection.

It is also unlikely that this would have any effect on aggregate collection levels. Under this proposal, the incentive for an individual actor to over-collect is greater if that over-collection results in under-collection for a PCS. Consequently, one would expect that there will be a strong incentive for over-collectors to bid for streams of collected WEEE, rather than to generate new WEEE.

Moreover, if the reward to over-collectors was to be paid out of the compliance fees collected, this would reduce funds available to Local Authorities and other organisations to support local WEEE improvement projects to increase levels of WEEE collections, recycling and reuse rates.

3.3 Guaranteed non-zero compliance fee in the LHA stream (and any other streams with a positive net value of WEEE)

Some stakeholders have proposed that compliance fees should be guaranteed to be above zero even if the net value of a stream (i.e. the value of recycled material less the costs of transport and treatment) is positive.

In the compliance year 2014, the compliance fee for the LHA was set to zero. The reason for this was that third parties already have a strong economic incentive to collect, transport and treat LHA WEEE as a result of the net value of that stream being positive. As a result, one would expect the majority of LHA WEEE to be profitably treated by third parties in any event (exceptions might be small quantities of WEEE in areas with very high transport cost, e.g. the

Highlands and Islands, where it is unlikely to be profitable for third parties to transport and treat that WEEE even given a high scrap value).

It therefore makes sense for the compliance fee for any WEEE stream with a positive net value to be zero. Any guaranteed positive compliance fee for a WEEE stream with positive net value would increase costs of evidence without any environmental benefit.

By contrast, a zero compliance fee provides the opportunity for the free market to efficiently take care of most of the recycling of such WEEE. Any WEEE in a Local Authority DCF that, because of its geographical location, does not have a positive net value will nevertheless be collected by a PCS if required by the Local Authority DCF Operator (under regulation 34).²⁴

However, we believe that rather than having a specific exemption for LHA, the compliance fee methodology should state that any stream with a positive net value will have a zero compliance fee attached. Given that scrap metal values have fallen, it may be the case that the LHA stream may at some point have a negative net value. Equally, if scrap values increased sufficiently, it could be the case that there would be additional streams which also had positive values. This should apply to all streams which have a positive net value, as determined by the current fee methodology.

With this small change, the methodology applied in the compliance year 2014 is sufficiently flexible to accommodate changes in the net value of a WEEE stream over time.

3.4 Increased transparency and reduced uncertainty

Proposals made in 2014, and further public commentary by some stakeholders, suggest there should be more transparency and greater certainty in the system.

Uncertainty and a lack of transparency with respect to certain elements of the system help achieve the key aims of the regulations, as they avoid creating focal points whereby prices for all evidence are driven to the level of the compliance fee. However, in other areas we believe that there is merit in reducing the level of uncertainty.

Under current regulations, and the compliance fee mechanism adopted for 2014, the lack of transparency and uncertainty are built in and relate in particular to the following points:

²⁴ This would not be true for private DCFs.

- A PCS's net position is only known to itself, the regulator, and the administrator, and the information is not available to other WEEE collectors - both during and after the compliance year. The level of the compliance fee applying to a specific PCS is only known to each such PCS paying the fee for a specific stream and is only known to them after the evidence deadline. We believe it is important to retain this type of uncertainty in order to achieve the beneficial outcomes of the system.
- While the basic principles of the compliance fee methodology are known, the specific methodology is only announced to the stakeholders after the evidence deadline of the compliance year and is currently only valid for a single compliance year. We believe that, if there was a compliance fee methodology that operated on cost-reflective principles and resulted in minimal economic rents, it would be helpful to provide greater certainty that this methodology would be retained for more than one year.

In our view these types of uncertainty have different consequences.

3.4.1 Information on PCSs' net positions

In the current system, WEEE collectors do not (fully) know to what extent the different schemes are in surplus or deficit for each of the WEEE streams and at what level the compliance fee will be set for each PCS, although they may be able to make educated guesses to some extent.

This uncertainty helps drive down the prices for WEEE evidence towards the cost of collection and treatment and is therefore beneficial. The reasons for this are as follows.

- Collectors will avoid charging a high price for evidence as there is a risk that they might not sell that evidence. This would be the case if the proposed price of evidence was above the anticipated compliance fee that a PCS expected to face if it failed to meet its target.
- As the collectors do not know at what level the base compliance fee (from participating PCSs' weighted average costs) might be, whether a specific PCS might have to pay a compliance fee, and if so the extent to which this fee will be escalated above the base compliance fee level (i.e. whether that PCS is relatively far below its target for that stream), collectors have an incentive to charge prices close to their costs to be able to sell their evidence.

As set out previously, the economically efficient outcome of the system is if the prices for evidence are close to the respective transport and treatment costs, thereby minimising the WEEE costs to PCSs and ultimately consumers, as the costs of production are expected to likely be passed through to the final price of EEE.

Challenges to the current compliance fee methodology and their economic impact

The fact that collectors do not know any individual PCS's net position and the compliance fee it faces does not significantly lower the total amount of WEEE collected across the UK, or increase the chance of missing the collection target. If certain collectors ultimately felt they would not recover their costs of transport and treatment for WEEE, they might seek to exit their Local Authority contracts, thereby leaving the transport and treatment to other actors, most likely PCSs who would have an obligation under regulation 34 to transport and treat any WEEE if required by a Local Authority DCF operator.

3.4.2 Less frequent determination of compliance fee methodology

Under the current regulations, the methodology for the compliance fee is decided for each compliance year separately, with BIS publishing the Secretary of State's decision on the methodology after the end of the compliance year.

While we understand the reasons for this approach in relation to the first introduction of the system, we believe that this might add unnecessary complexity into the system over time. **If a methodology has been found to work well, we believe there would be merit in approving it for a longer period of time (e.g. 3-5 years).** This would reduce administration costs for PCSs and BIS significantly as costs to the government and stakeholders presenting proposals to the government are only required every few years.

It also helps the participants to make more accurate assessments of the regulatory framework while maintaining uncertainty as to the level and usage of the fee (see previous sections). Even without formally extending the period over which methodology is applied, participants would likely make forecasts on the basis of the methodology previously applied in any event (particularly so if more or less the same methodology has been applied for several years).

To keep some flexibility and be able to respond to market developments, an alternative would be to approve the methodology for up to a certain number of years, with BIS keeping the option to review and amend if necessary prior to the end of that period, at its discretion.

3.5 An exchange-based approach

The T2E response to the BIS call for proposals in 2014 suggested that the level of the compliance fee should be drawn from the prices of evidence traded on an exchange (plus an escalator and administration fee).

We do not consider this proposal to provide good economic outcomes. An exchange based approach would provide greater price transparency, which would likely result in higher prices. This is because the price at which WEEE is traded on the exchange could result in a focal point, around which contracts that are negotiated outside the exchange would revolve. It is not clear that this approach

would give rise to cost-reflective outcomes and so would be likely to be less beneficial than the 2014 compliance fee proposals.

Moreover, we also understand that there have been past attempts to use an exchange-based approach, which have been unsuccessful with minimal volume traded. We do not think it would be sensible to require trading to be undertaken on an exchange for the reasons of transparency identified above. This would also restrict the ways in which PCSs can contract with providers of evidence, and there may be alternatives to spot trades (e.g. long term contracts) which may have beneficial effects (e.g. greater certainty of evidence streams over time).

3.6 Stream-by-stream trade-offs

The Dataserv, DHL, Transform, Valpak and Veolia response to the 2014 BIS consultation proposed allowing schemes who have excess collections in one stream to be able to count those tonnes to offset the compliance fee in another stream, but only if the excess was in a higher cost stream. For example, if a scheme had an excess of 10 tonnes of lamps this could be used to offset 10 tonnes in any other stream instead of paying a compliance fee, while if it had an excess in display then this could be used to offset compliance fees for cooling, mixed WEEE and LHA (and so on). The aim of this scheme was identified as avoiding the potential for schemes to aim deliberately to meet their targets through lower cost collections.

The identified concern was not relevant under the actual compliance fee employed in relation to the 2014 compliance year, as this was set on a stream by stream basis. Moreover, any system which allowed the trading off of surpluses in one stream with deficits in another would mean that it would not be possible to have encouraged the meeting of targets of any individual stream. **We therefore do not think this would be a sensible modification to the system.**

4 Monitoring high market concentration in WEEE collection

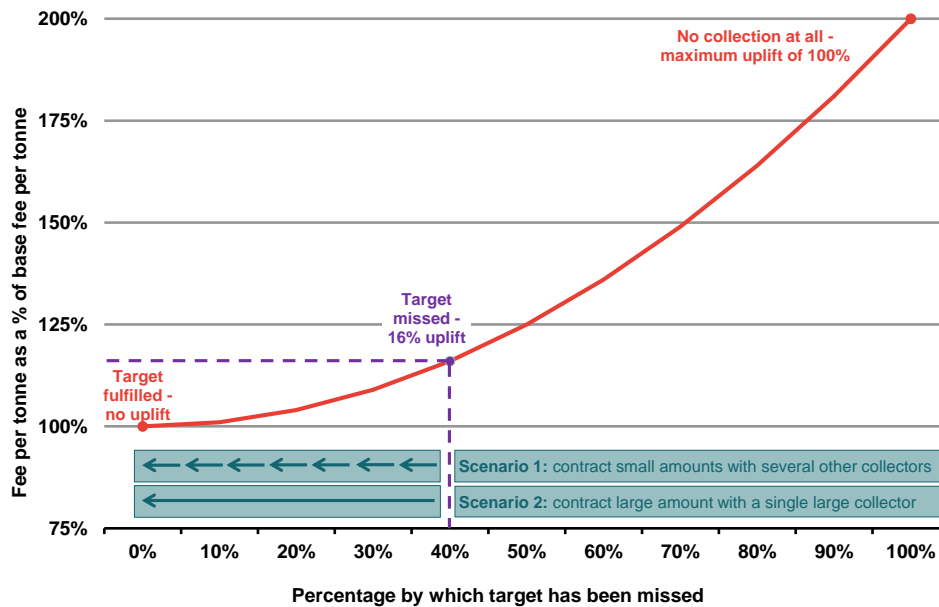
We have discussed in Section 1.3.2 above that in the absence of a compliance fee, those who collect more than their obligations with material quantities of WEEE could lead to there being a “must buy” situation. We understand that the collection of WEEE in some streams is concentrated.²⁵ This is therefore a material risk. This suggests that it is extremely important to maintain a compliance fee approach, as discussed in Section 1.3.1 above.

Even under the current “target and compliance fee” system, the existence of concentration of WEEE could lead to higher pricing of WEEE due to the impact of the escalator. For example, consider the options for a PCS that has already secured 60% of its target in a specific stream and is looking to contract with other collectors for the remaining 40%.

- **Scenario 1:** If there are a number of different collectors that each hold only a small or a moderate share of the overall collection, the PCS is likely to be able to make a series of arrangements with prices close to costs to fulfil its target (see illustration in **Figure 6** below). If a specific collector asked for an excessive price, the PCS might be able to purchase more WEEE from another collector or, worst case; it would fall short of the target by a small amount and pay a compliance fee that is slightly escalated above costs.
- **Scenario 2:** If the collection of WEEE is highly concentrated (e.g. suppose one collector holds a share of 40%), the PCS might have to approach that collector to fulfil its target. If the large collector held back some of its WEEE, the PCS would likely fall short of its target (by up to 40%) and would thus face an escalated fee. Even if the large collector does not know by how much the PCS’s fee would be escalated, but only that there is an escalator, it may well still be able to identify that due to its size it will be able put the PCS in a position where it faces a compliance fee above costs, perhaps significantly. If so, one would expect the large collector would be able to negotiate prices above costs for the remainder of its WEEE.

²⁵ For instance, we understand that an increasing amount of WEEE is being collected by a few large organisations such as retailers, which would appear to be particularly relevant to the LHA and cooling streams where EEE is often delivered directly to the home.

Figure 6. Escalator of 2014 methodology – potential impact of high concentration of those who collect WEEE above the levels of their obligations



Source: Frontier Economics based on JTA proposal 2014

As set out above, the current escalator does not increase sharply from a zero shortfall and therefore does not overly penalise PCSs that are a small amount below their target. Having an escalator that increases only gradually from zero is particularly important where there is high concentration of WEEE ownership. This provides a further reason to retain the current escalator.

We also recommend that BIS keeps this issue under review, and if there emerged evidence that large over-collectors were able to materially influence the level of the compliance fee applying to particular PCSs, then further action may need to be taken (e.g. changing to a cubic escalator and/or reducing the maximum uplift of the escalator to 50%, for instance).

Monitoring high market concentration in WEEE collection

Annex: About Frontier Economics

Frontier Economics is one of the largest economic consultancies in Europe with offices in Brussels, Cologne, Dublin, London and Madrid.

Founded in 1999, we use economics to help clients improve performance, make better decisions, design markets and policies optimally, and keep ahead of the competition. Our expertise is broad, covering not just micro-economics but finance, statistical modelling, game theory, market research and behavioural economics.

Frontier Economics has carried out several projects in the Waste Electronic and Electrical Equipment sector, looking in particular at the economic effects of the UK WEEE Regulations 2006.

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**Proposal to the Department of Business
Innovation and Skills**

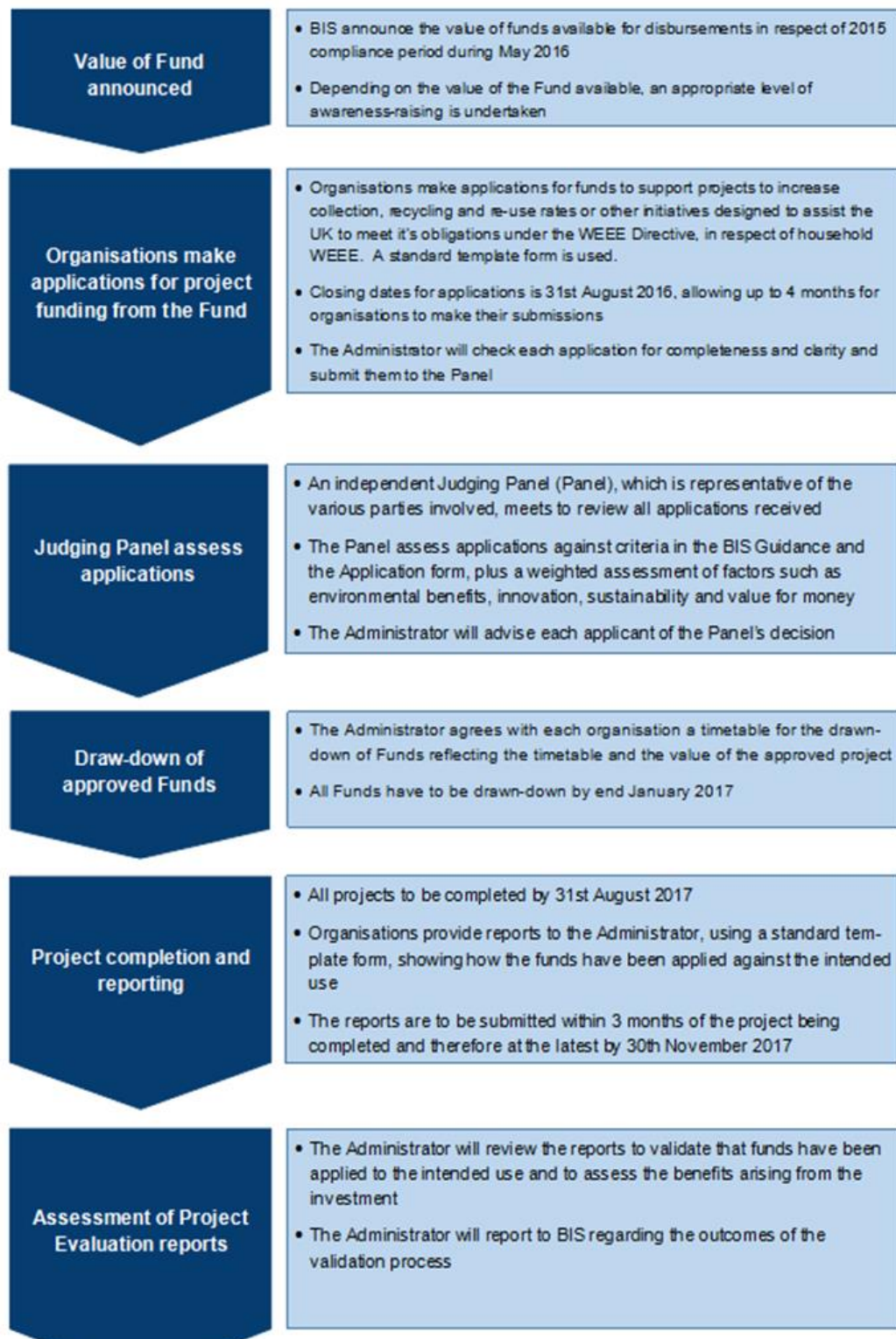
**Operation of a WEEE Compliance Fee for the
2015 Compliance Period**

Appendices 3 - 6

September 2015

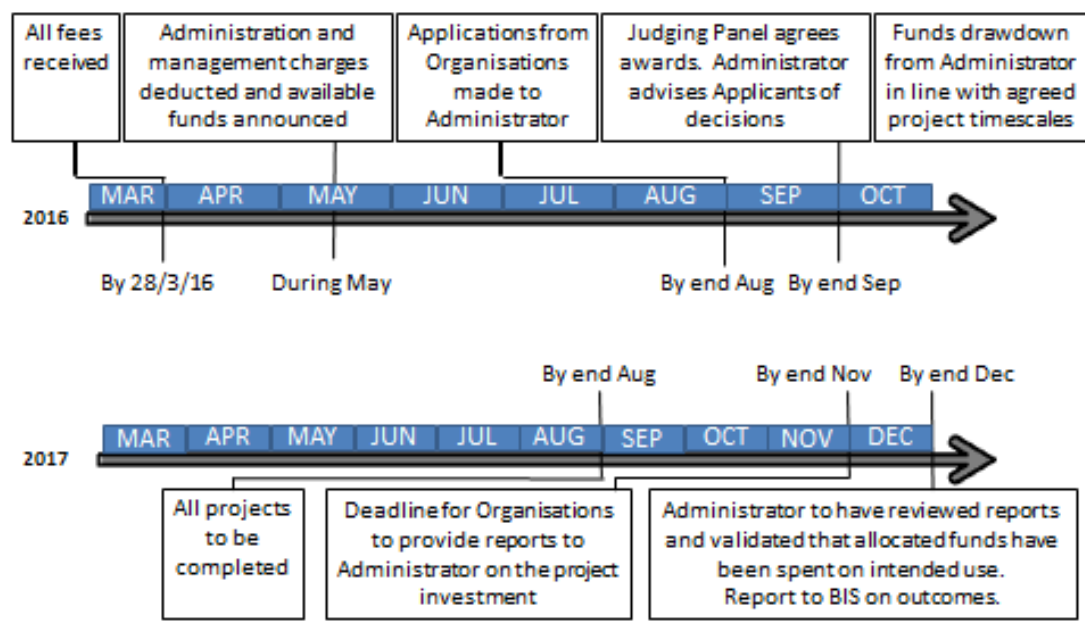
Appendix 3

JTA Process for Disbursements from the Compliance Fee Fund in respect of the 2015 Compliance Period



Disbursements Timeline

Applying for finance from the Compliance Fee Fund



1. Starting point:

- 1.1 In May 2016 the Administrator will confirm to BIS and JTAC the estimated value of the Compliance Fee funds available for disbursement to support WEEE improvement projects as set out in the BIS Guidance. This estimated value will be based on the total of compliance fees and administration fees paid by PCSs minus the estimated costs of administration and management of the Compliance Fee Mechanism for the 2015 Compliance Period through to its close at the end of December 2017.
- 1.2 BIS will then inform interested organisations, including Local Authorities, of the available funds together with details of the process by which they can submit applications for payments from the fund. Applicants will need to demonstrate how funds will be used to support higher levels of collection, recycling and legitimate re-use of WEEE or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive.
- 1.3 The process set out below incorporates feedback during the summer of 2014 from representatives of the National Association of Waste Disposal Officers (NAWDO), the Local Authority Recycling Advisory Committee (LARAC) and the Local Government Association (LGA) and further valuable feedback will be sought from them once all parties have gained some experience from the disbursement process for the 2014 compliance period. A combined call for funds, with the DTS, has only recently been announced. The aim is to keep the application process simple and streamlined. Local authority representatives also emphasized the importance of the following points in

their feedback, which, where possible, have been built into this Disbursement Process:

- 1.3.1 Keep the application process simple, thereby reducing the administrative burden of making an application to a reasonable and proportionate level.
- 1.3.2 Promote an appropriate level of awareness of any Compliance Fee Fund that is available.
- 1.3.3 Low value applications should require a lower level of detail than higher value applications.
- 1.3.4 Provide clear criteria for organisations to meet when preparing their applications e.g. demonstrating that the application is in respect of new projects.

2. **Application process:**

- 2.1 This will be kept as simple as possible in order to keep administration work for both the applicant organisations and the Administrator to a minimum. Applications will be assessed based on their compatibility with the criteria in section 3 of this Appendix. These criteria are based on the BIS Guidance of July 2015.
- 2.2 The Administrator will provide a standard template application form for applicant organisations to complete and submit to the Administrator. A draft of the form, based on the application form agreed for the combined WEEE Compliance Fee 2014 fund and the Distributor Take-back Scheme (DTS) fund announced in September 2015 is given in **Appendix 5**. If the Secretary of State for BIS selects the JTA 2015 Proposal, the final form of the application form will be agreed with BIS as part of the detailed discussions about the 2015 disbursement process, including e.g. whether there will be a combined application process with the DTS fund.
- 2.3 Applications will be made either by email or post (choice of the applying organization) using the standard template form in 2.2.

2.4 **Proposed timetable for the process**

The proposed timetable is as follows but this will be further refined in discussion with BIS during the implementation phase if the JTA Proposal is approved by the Secretary of State for BIS. The timetable includes time for awareness-raising of the availability of the fund.

May 2016 = the estimated amount of Compliance Fee funds available for disbursement will be announced by BIS and an appropriate level of awareness-raising of the Fund commences. This level will be proportionate to the amount of funds available.

End August 2016 = closing date for applications from applicant organisations. This provides a minimum 3 month time window for applications to be submitted

End September 2016 = Independent Judging Panel (chaired by BIS) to have reviewed all applications against the criteria set out in 3 below and decided which to approve (and to what value) and which to reject. The Administrator will advise applicant organisations of the decisions of the Judging Panel.

End January 2017 = all approved funds to be drawn down by the applicant organisations and paid by the Administrator with the possible exception of large projects where a small part of the funds may be held back until completion of the project.

End August 2017 = all projects to be completed, with funds spent on the projects proposed in the application approved by the Judging Panel.

End November 2017 = Closing date for applicant organisations of approved projects to provide a report to the Administrator showing how the approved funds have been spent in relation to the intended use.

End December 2017 = the Administrator will have carried out a validation process of reviewing the reports submitted by the applicant organisations (a desk review) and reported the results of the investments in WEEE improvement projects to BIS. In the unlikely event of the grant/funds having been spent other than on the intended use the Administrator will report this to BIS.

3. **Criteria for Applications:**

- 3.1 All applications must show how any funds allocated from the Compliance Fee fund will be utilized to improve the UK WEEE system. This could e.g. include projects that contribute to higher levels of collection, recycling and legitimate re-use of household WEEE, or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive. The funds are not available to meet normal operating costs or to pay for the collection or treatment of non-household WEEE.
- 3.2 Applications may be made in collaboration with partner organisations such as local re-use organisations or other relevant organisations but must meet the criteria of contributing to higher levels of collection, recycling and re-use of household WEEE or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive.
- 3.3 All applications must be submitted in accordance with the timetable set out in section 2 above, with a commitment to spend any allocated project funding by the end of August 2017.
- 3.4 Applications must include a commitment to provide a written report, using a template format to be provided by the Administrator, within three months of the project funding

having been spent and to work positively with the Administrator in reviewing the report to validate that the funds were spent in accordance with the approved application.

- 3.5 Applications must include a commitment that non-confidential information gathered from carrying out these new projects can be published to encourage learning for all parties.
- 3.6 Applications must be signed by a Director, Head of Department, or other senior manager if more appropriate, to confirm that the information provided is correct and that there is full support to the proposed new project/initiative being put forward by the applicant organisation. Where the application is made in collaboration with partner organisations they should also confirm their support to the project by signing the application.
- 3.7 Applications are required to include clear measurable targets and performance indicators so as to ensure that projects/initiatives will deliver the benefits to the UK WEEE system that are described in the application e.g. increase the amount of household WEEE collected, recycled or re-used.
- 3.8 Requirements in 3.1. to 3.7 above have been used to devise the following criteria:
- 3.8.1 Demonstrate the application will contribute to higher levels of collection, recycling and re-use of household WEEE as evidenced by the inclusion of clear targets and performance indicators in the application showing, where appropriate:
- Increases in separately collected household WEEE
 - Increases in recycling rate of separately collected household WEEE
 - Increases in the amounts/rates of legitimate re-use of separately collected household WEEE
 - Other initiatives designed to assist the UK to meet its obligations under the WEEE Directive.
- 3.8.2 Encourage increased volumes of separately collected household WEEE and increased recycling in line with BATRRT (Best Available Treatment, Recovery and Recycling Techniques) requirements and legitimate re-use;
- Application form to include sufficient information to demonstrate that all volumes of separately collected WEEE will be treated at AATF's in line with BATRRT
 - Application form to include sufficient information to demonstrate that all separately collected WEEE sent for re-use is sent for legitimate re-use

3.8.3 Other criteria

- Demonstrate that the project is a new activity or a significant expansion of an existing activity.
- Degree to which project shows innovation and will inform best practice. Applicants must prepare a report within three months of the project completion (and be willing to share and publish information from this report in the interests of sharing best practice), which shows how the funds were applied for the intended use.
- Degree of sustainability of the project to continue to deliver the benefits after the project funding is finished.
- Overall value for money and environmental impact of the proposal in delivering the increased levels of collection, recycling and re-use of household WEEE compared with the funds required.

4. **Processing and approval of applications:**

- 4.1 The Administrator will check all applications for completeness and clarify any points necessary with the applicant.
- 4.2 The Administrator will consolidate all applications and submit them to the independent Judging Panel (chaired by BIS) for consideration. If required the Administrator will provide secretariat support to the judging panel in its deliberations but will not be one of the decision-makers.
- 4.3 An independent Judging Panel, representing relevant stakeholders, will be formed, in discussion with BIS. It is proposed that this panel include representatives from local authorities, BIS, a producer representative body and an appropriate WEEE experienced independent body. Costs, if any, associated with the judging panel meeting(s) will be part of the administration costs of the Compliance Fee system.
- 4.4 The independent Judging Panel will assess all applications using the criteria set out in section 3 above plus a weighted assessment of factors such as environmental benefits, innovation, sustainability and value for money. The panel will then allocate funds, taking into account the Funds available and instruct the Administrator to implement the decisions.
- 4.5 The Administrator will advise each applicant whether they have been successful or not, the extent of the funds allocated to them, and agree with them the expected drawdown of funds. For smaller projects it is expected the funding will be made as a single up-front payment; for larger projects some phasing of the funding is expected.
- 4.6 The Administrator will report to BIS periodically as to progress of the draw down of the funds.

5. **Validation that funds allocated were applied to their intended use:**

- 5.1 Organisations that are awarded funds will provide a written report, using a template form, which will be provided by the Administrator, of how these have been spent against their intended use within three months of the project being completed.
- 5.2 The Administrator will carry out a desk review of the report, including contacting the applicant organisation if appropriate, to validate the expenditure against intended use. In exceptional circumstances e.g. high value projects or significant questions arising from the report and review process, the Administrator may carry out a field visit, with the support of the organization concerned, to validate the expenditure.
- 5.3 The Administrator will confirm to BIS the outcomes of their reviews of the projects, any improvement trends that are reported and any concerns they may have.

6. **Residual money in the Compliance Fee fund:**

- 6.1 The process agreed with BIS and the Judging Panel should ensure that the available funds for projects are allocated and distributed to projects that meet the criteria set out in section 3 above. In the exceptional event that after the independent judging panel has awarded funding, as it judged appropriate, there are residual funds remaining from the 2015 compliance period, the Administrator will advise BIS and JTAC of that outcome and the amount of money unallocated.
- 6.2 The Administrator will liaise with BIS regarding how the residual money is to be used e.g. offer a second round of applications using the same criteria as before. Other options could include a different range of projects with the objective of improving the UK WEEE system and collection, recycling and re-use levels; transferring the balance of monies to the Compliance Fee fund in respect of the 2016 compliance period, etc.

7. **Potential links with other schemes dispersing funding for household WEEE improvements:**

This JTA 2015 Proposal sets out a standalone disbursement process. For the 2014 Compliance Fee disbursement process, with the support of BIS, the JTA and the Distributor Take-back Scheme (DTS) cooperated to create a single call for proposals as they both managed funds with very similar criteria for allocation. In the event that the DTS has funds available for disbursement, with similar criteria, during the time that the 2015 Compliance Fee funds are being disbursed the JTA would again be pleased to participate in coordination discussions between the Schemes in the interests of reducing administration work for applicant organisations.

Appendix 4
How the JTA 2015 Compliance Fee Proposal addresses the assessment criteria in the BIS 2015 Guidance for submitting Compliance Fee Proposals.

1. Proposed methodology for the calculation of the fee. Proposal should:

<p>Set out a methodology for calculation of a compliance fee across each WEEE collection stream that encourages schemes to take all reasonable steps to meet their collection target without recourse to the compliance fee</p>	<p>1. The Compliance Fee methodology developed by FTI Consulting, re-validated by Frontier Economics Ltd and proposed in this JTA Proposal encourages compliance by collection, without recourse to the compliance fee, by ensuring that the Compliance Fee charged to a PCS will be higher than the weighted average cost that PCSs using the fee would incur by directly collecting and treating WEEE via DCF collections. It also meets BIS's stated objectives (see BIS July 2015 Guidance) of discouraging PCSs from collecting WEEE significantly above their targets and then seeking to sell that surplus at excessive prices to PCSs that are short of their target amount in any category. This is through the following elements:</p> <ul style="list-style-type: none"> a. The basic formula on which the Compliance Fee methodology is based ensures that the Fee is always higher, through the escalator, than the average costs of collection and treatment of all those PCSs using the Compliance Fee. (Base fee is the weighted average but even a 1% miss of the target activates the escalator). b. The Compliance Fee calculation incorporates both the costs of direct collection and transport; therefore for any evidence shortfall due to Regulations 43 and 52 the cost difference is higher because when dealing with those directly the PCS is only responsible for the treatment costs. All LA DCF WEEE will be collected in any event because of their automatic right of uplift. c. The formula on which the Compliance Fee methodology is based incorporates an escalator mechanism whereby the further a PCS is away from their target the higher the Compliance Fee will be e.g. if a PCS has made no, or very few, collections against their target the Compliance Fee charged would be double the average costs of collection and treatment for the stream involved. As
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	<p>a result PCSs are strongly incentivised to take all reasonable steps to meet their collection targets without recourse to the compliance fee.</p> <p>2. In addition to any compliance fee calculated by the FTI methodology, PCS's will also incur additional costs under the JTA 2015 Compliance Fee Proposal as follows, which will further encourage them to take all reasonable steps to meet their collection targets without recourse to the compliance fee:</p> <ul style="list-style-type: none"> a. Where a PCS has a shortfall of more than 10% against their target for any stream they will be required, for each such stream, to contribute to the costs of running the compliance fee mechanism through an Administration Fee. The administration fee proposed is £2000 per stream up to a maximum of £5k for a PCS across all streams. b. PCSs that choose to use the Compliance Fee to cover any shortfall per stream will incur administration effort and costs, including an independent auditor to review their submitted data. <p>Cross-reference: for fuller details see Appendix 1 FTI Report and Section 3.3 of the JTA Proposal</p>
Be stream specific by taking into account the different costs associated with the collection, treatment, recovery and environmentally sound disposal of each of the 6 collection streams i.e. a PCS short of their targets by 10 tonnes of Display Equipment and 15 tonnes of Cooling Equipment will pay a fee specific to their shortage in each stream rather than a generic fee for a shortage of 25 tonnes.	<p>1. The Compliance Fee mechanism developed by FTI Consulting is WEEE collection stream specific i.e. there is one methodology but it requires PCSs to submit data separately for each stream and generates a separate and specific Compliance Fee for each of the collection streams (where required). Within the methodology proposed by the JTA it is not possible to offset surpluses in one collection stream against shortfalls in another.</p> <p>2. For any category where the net cost is positive this Compliance Fee methodology will calculate a zero fee. It is not considered appropriate that there should be a positive or a negative Compliance Fee applied for such a collection stream. The logic for this is that PCS's (and other collectors) are already incentivised to maximise collections of positive value streams due to the profits they can make from such streams. There may be small quantities of WEEE with net cost in streams that predominantly have a positive income e.g.</p>

<p>Proposals may consider circumstances where a negligible or zero fee might be appropriate</p>	<p>Cat 1 LHA from DCFs in remoter geographic regions such as the Highlands. However, the quantities involved are small and will be collected from such DCFs by PCSs in any event because of the automatic right of free uplift.</p> <p>If a stream that previously had a net positive value changed to a net cost stream then the methodology would calculate a positive compliance fee.</p> <p>Cross reference: for fuller details see Appendix 1 FTI Report, Appendix 2 Frontier Report and Section 3 of the JTA Proposal document.</p>
<p>Provides robust economic analysis in support of the proposed methodology</p>	<p>The methodology developed by FTI Consulting for the 2014 Compliance Fee mechanism was based on a very robust economic analysis, which is outlined in their report in Appendix 1 to this report.</p> <p>For the JTA 2015 Compliance Fee Proposal the JTA commissioned a different independent economics consultancy, Frontier Economics Ltd, to carry out a review of the effectiveness of the 2014 methodology and recommend any improvements they felt would be appropriate. Their report, attached as Appendix 2, was also based on a robust economic analysis and concluded that the 2014 compliance fee approach should broadly be retained in 2015, subject to two minor recommended changes described below. They further concluded that the form of escalator employed in 2014 is working well and considered that there would not be any objective economic benefit from changing it</p> <p>Frontier have proposed the following changes but these do not affect the basic methodology:</p> <ul style="list-style-type: none"> • That it is made clearer that the principle of a zero fee can be applied for any stream which has a positive net value (not just category 1 LHA) and that if such a stream subsequently moved to a net cost stream a positive compliance fee would be calculated as a result.

	<ul style="list-style-type: none"> • That a compliance fee mechanism should be approved for a longer period than 1 year e.g. 3 – 5 years in the interests of stability for all stakeholders and reduced administration and costs of carrying out an annual process. The JTA do not recommend that this change is proposed in respect of the 2015 compliance period without further discussion, but do believe that this approach could reduce costs and red tape for both BIS and proposers of compliance fee mechanisms.
Explain the extent to which interested parties including producers, local authorities or other organisations have been consulted in developing the proposal.	<p>The JTA has consulted with interested parties as follows:</p> <ul style="list-style-type: none"> • Through its membership of nine separate trade associations in the electrotechnical sector, producers have had wide input into the proposal. • For its 2014 Compliance Fee Proposal, on which this 2015 Proposal is based, the JTA consulted with representatives of NAWDO, LARAC and LGA. Feedback was positive and has been used again to help develop the disbursements process outlined in Appendix 3 of this Proposal. Whilst it was not possible to advise the likely value of the compliance fee funds that might be available for disbursement, the local authority representatives did welcome the possibility of additional funds. The Local Authority representatives also emphasized the importance of an application process that was designed to keep the administration burden minimal, whilst respecting the BIS Guidance on criteria. The JTA will consult further with these representative bodies once some experience of the disbursements process for the 2014 compliance period has been gained. • The JTA consulted with a representative of the Agencies about the mechanism by which the agencies might receive information from the Administrator and used the feedback to set up the reporting from the 2014 mechanism to the Agencies. The resulting process worked effectively, without creating administrative burdens, for the 2014 mechanism and the process is therefore already in place to be used for the 2015 mechanism if the JTA Proposal is approved by the Secretary of State for BIS.

	<ul style="list-style-type: none"> The JTA has engaged particularly with producer-led PCSs (ERP, Recolight and Repic) who have considerable obligations on behalf of their members in household WEEE. This has helped in the development of this proposal, including with regard to ensuring that the methodology is robust, reasonable and fully workable from a PCS perspective both in terms of the data to be provided and the timescales in which it has to be provided.
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2. Proposed administration of the fee. Proposals should:

Describe how the overhead costs of calculating, setting up and administering the compliance fee mechanism and disbursement of funds will be met. This should include contingencies for a situation of minimal or zero up take amongst PCSs.	<p>The overhead costs of calculating, and administering the compliance fee mechanism and the disbursement of funds will be met in the following ways:</p> <ul style="list-style-type: none"> PCS's that choose to use the compliance fee to cover a shortfall greater than 10% of their collection target for any and each stream will be required to contribute to the overhead costs by paying an administration fee, in addition to a compliance fee or £2000 per stream up to a maximum of £5000 across all streams for any PCS. The balance of the overhead costs will be paid for out of the collected compliance fee payments. All the remaining Compliance Fee funds are then available to support approved applications for funding from applicant organisations, in respect of projects to increase collection, recycling and re-use of WEEE or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive.
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	<ul style="list-style-type: none"> • The JTA 2015 Compliance Fee Proposal is based on its 2014 Proposal, which was approved by the Secretary of State for BIS and has been effectively implemented to date. Therefore there will be no costs of setting up for the 2015 Proposal as the processes and systems are already in place and proven to be effective. <p>In the event that there is a minimal or zero take up amongst PCSs any uncovered overhead costs of this 2015 Compliance Fee Proposal will be paid by JTAC.</p> <p>Cross reference – Section 5 of the Proposal</p>
<p>Describe the mechanism by which PCSs submit information that the proposed operator will use to calculate the fee. The proposal should also describe what information must be provided, how the information will be shown to be reliable whilst maintaining commercial confidentiality.</p>	<ul style="list-style-type: none"> • The mechanism by which PCSs submit information to the proposed operator (the Administrator) and the information that must be provided for calculating the fee(s) is broadly described in detail in the FTI methodology report attached as Appendix 1. • The independent Administrator (Mazars LLP), who operated the 2014 mechanism, has set up appropriate instructions and forms for PCSs, that choose to use the compliance fee, to submit the information described in the FTI report. The process worked effectively in respect of the 2014 compliance fee mechanism and will be used again for the 2015 mechanism, if the JTA 2015 Proposal is selected, with some minor improvements based on feedback Mazars received directly from PCS users. This more detailed information can be provided to BIS if required. • To ensure reliability of the data submitted by PCSs the forms submitted by them to the Administrator are required to be signed-off by a Director of the PCS and to be supported by an independent review from a registered auditor on an “Agreed Upon Procedure” basis. This is considered to be a reasonable and proportionate requirement to ensure the data is reliable and worked effectively for the 2014 compliance period. The Administrator then reviews the data submitted and the accompanying audit report and clarifies any anomalies with the submitting PCS.

	<ul style="list-style-type: none"> Commercial confidentiality of data and other information submitted is assured by ensuring that the only party that receives and uses that data or information is the independent Administrator, Mazars LLP. Mazars were selected for this role because they are a Top 10 UK accounting and audit firm able to offer complete integrity, professionalism and independence in managing such data as a matter of routine. <p>Cross reference – Appendix 1 FTI Report and Sections 3 & 4 of the JTA Proposal. Details of the “Agreed Upon Procedure” report can be provided to BIS if required.</p>
<p>Describe the mechanism PCSs would use to pay the fee, including evidence of auditing arrangements, to ensure declarations of payments by PCSs (if needed) are reliable, and how commercial confidentiality will be maintained.</p>	<p>Full details of how PCS’s can pay the fee, what information must be provided and how confidentiality is maintained under the JTA proposal are outlined in Section 3 of the JTA Proposal and Appendix 1 FTI Report, with fuller details provided by the Administrator, as summarized below:</p> <ul style="list-style-type: none"> If the JTA proposal is accepted and following formal announcements by BIS regarding the Compliance Fee arrangements, the Administrator will write to all PCSs registered in the UK, advising them of the process for accessing the compliance fee. Any PCS that intends to use the compliance fee will be required to advise the Administrator of that by 15th February (or later if the BIS announcement is later than 14th February) and by the end of February 2016 to: <ul style="list-style-type: none"> Complete the data collection template form (in excel format) provided by the Administrator. The information that must be provided by PCS’s is detailed in that form, which worked effectively for the 2014 compliance period. If required by BIS, the Administrator can provide details of the form. Arrange for an independent review of the data, in the form of an Agreed Upon Procedure report, submitted by a registered auditor. Such a review is naturally proportionate to the size of the PCS and the amount of tonnes and streams for which they wish to use the compliance fee. There are approximately 7000 firms registered as auditors which provides a wide range of choice for PCSs. The

	<p>Administrator will provide a template report form for this report, which was successfully used for the 2014 compliance period.</p> <ul style="list-style-type: none"> ○ Advise the Administrator of the PCS's exact tonnage target, and exact tonnage shortfall, for each stream in which the PCS will use the fee. ○ Sign the Terms and Conditions agreement provided by the Administrator, which will include strict confidentiality provisions. ○ Submit all information signed off by a Director of the PCS. <ul style="list-style-type: none"> • The Administrator will set up a dedicated Client bank account for the 2015 compliance fee fund (as they did for the 2014 fund). The account details will be made available to those PCSs that wish to use the fee. Once the Administrator has calculated the fee and any administration fees that apply, they will issue, by 14th March 2016, a request for payment to those PCSs, detailing the amounts payable by that PCS for each applicable WEEE stream. PCSs will then need to make payment to the Client bank account before the Administrator can issue a Compliance Fee Payment Certificate (CFPC). With same day payments, there will be plenty of time for this to occur but the latest day for a cleared payment in respect of the 2015 compliance period will be 28th March 2016 to allow sufficient time for a CFPC to be issued to the PCS and for the PCS to complete their own Declaration of Compliance to the Environment Agencies by 31st March 2016. • Strict commercial confidentiality will be maintained throughout this process. Specifically, the name and total number of PCSs that have used the fee, and the streams for which a fee has been paid, will be kept entirely confidential within the Administrator organisation. The Administrator will keep all data provided by PCSs to the Compliance Fee Administrator confidential. This worked effectively for the 2014 compliance fee mechanism and is achieved by:
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	<ul style="list-style-type: none"> ○ Appointing a third party Administrator (Mazars LLP) familiar with the maintenance of client confidentiality. ○ Ensuring that all PCSs using the compliance fee sign a Terms and Conditions agreement with the Administrator that includes robust confidentiality provisions. ○ The Administrator will be instructed and contracted, as they were for the 2014 mechanism, not to provide JTAC Ltd with any details of any individual payments into the client account.
Describe the mechanism for ensuring the environment agencies receive necessary evidence that an appropriate compliance fee has been paid by PCSs. The agencies must be able to recognize, when accepting a Declaration of Compliance from a PCS, that is comprised of WEEE evidence and payment of a compliance fee. Validation of the compliance fee must not place significant additional burdens on the agencies.	<ul style="list-style-type: none"> • Once the Administrator is satisfied that the correct fee has been paid by a PCS, the Administrator will issue a Compliance Fee Payment Certificate (CFPC) to the PCS certifying the tonnage and stream(s) for which the assessed compliance fee has been paid in full. The PCS can then either provide a copy of this CFPC to the relevant agency, or refer to it when submitting their Declaration of Compliance for 2015. The agencies will also be able to validate the authenticity of any CFPC issued by the Administrator. As a result, the validation process for the agencies will be simple and straightforward. • The Administrator will also provide to each agency a summary report listing the names of their registered PCSs that have paid compliance fees for each stream and the number of tonnes covered by the fee. In no circumstances will the Administrator include the amount actually paid by a PCS, or the compliance fee rate per tonne, on any communication being sent to the agencies. We understand that this process worked effectively for the 2014 compliance fee mechanism in terms of ensuring the environment agencies received the information they required in a timely and efficient way. • In the event that there was a discrepancy regarding tonnage covered by a compliance fee payment in respect of the 2015 compliance period the Agency can check the quantities with the Administrator.

	Cross reference – Section 3 and Appendix 1 of this Proposal
consider the impact of and comply with other relevant law, for example Competition Law.	<p>The JTA Proposal has considered the impact of and compliance with other relevant law.</p> <p>In respect of Competition Law in particular:</p> <ul style="list-style-type: none"> • The appointment of Mazars LLP, a UK top 10 accountancy and audit firm ensures that the administration is managed by a professional, qualified organisation that is able to act independently of all parties that might wish to use the compliance fee mechanism or to seek disbursements from the compliance fee funds. Mazars are subject to accountancy industry codes and regular reviews by their industry regulators. • There is a terms and conditions agreement between the Administrator and each PCS that wishes to use the compliance fee, which sets out the requirements for ensuring that all information will be treated in commercial confidence and that any compliance fee advised to a PCS should also be treated in confidence. • The contract between JTAC and the Administrator specifies that the Administrator is required to keep all commercially sensitive market information strictly to specified staff members within their own organisation and not to disclose any such information outside their own organisation, including not to JTAC or JTAC members. • The Compliance Fee mechanism is open to any party entitled to and wishing to use it e.g. PCSs who wish to use the compliance fee and organisations that wish to apply for funds towards WEEE improvement projects. <p>In the economic analyses by both FTI Consulting and Frontier Economics Ltd they have independently emphasized the importance of maintaining strict confidentiality in regards to information about compliance fees paid, PCSs using the compliance fee, compliance fee rates per tonne, tonnages per stream for which compliance fees have been paid etc., in order to ensure a competitive market and to avoid any breaches of competition law.</p>

Consider sound contingency plans	<ul style="list-style-type: none"> • A risk for which contingency plans are essential is how to cover the costs if there is minimal or zero up take of compliance fees by PCSs. In this situation JTAC Ltd will pay any uncovered costs. • The 2014 mechanism operated by Mazars worked smoothly and to plan, so we are confident the proposed service is deliverable for the 2015 compliance year. We recognise the availability of qualified resources to process all the stages is essential in ensuring that compliance fees are paid and certificates of payments are issued in a timely way. By using a large and suitably professionally qualified organisation, Mazars LLP, as the Administrator this risk is removed, as they will be able to apply the necessary level of resources as required. • Compliance fee payments are made into a dedicated client bank account for the 2015 compliance period and therefore any risk of those funds being mixed up with other funds or applied wrongly is removed. • In respect of applications from organisations for funding towards WEEE improvement projects the JTA Proposal describes the contingency actions in the event that there is a) over-demand for funds i.e. the Judging Panel will make the necessary decisions and allocate accordingly or b) under-demand for funds in which case BIS will be consulted as to how un-allocated funds from the 2015 compliance year should be used. • The 2015 Compliance Fee mechanism proposed by the JTA is open to all those organisations that wish to use it and meet the relevant criteria i.e. PCS's and organisation wishing to make applications for funds to support WEEE improvement projects. Therefore there should be no risk that an organisation that wishes to use it and meets the criteria, will not be able to. The JTA has also set up a website (www.weeefund.uk) to publicise the existence of funds to organisations wishing to make applications.
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3. Proposed methodology for the dispersal of funds. Proposals should:

<p>Describe how payments received establish a fund from which disbursements will be made and recover the costs of administering the compliance fee process</p>	<p>The JTA Proposals describes this as follows:</p> <ol style="list-style-type: none"> 1. All compliance fee payments by PCSs are paid into a dedicated client bank account for the 2015 compliance period and thereby form the compliance fee fund. Mazars LLP as the Administrator of the 2015 compliance fee mechanism operates this client bank account independently. 2. Payments from the fund will only be in respect of either disbursements to applicant organisations where their applications for funds have been approved by the appointed Judging Panel (chaired by BIS) or for covering the costs of administration and management of the 2015 compliance fee mechanism. 3. In the event that insufficient or no compliance fee payments are received the JTA Proposal also provides that the balance of any administration and management costs are paid by JTAC. <p>For fuller details see section 3.4. and Appendix 3 of the JTA Proposal for the 2015 Compliance Fee mechanism.</p>
<p>Show details of the mechanism for the dispersal of funds collected. This should include proposals of how the fund should be utilized. These could for example seek to support higher levels of collection, recycling and legitimate re-use of WEEE or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive. This must</p>	<ol style="list-style-type: none"> 1. The mechanism for the dispersal of funds collected is shown in detail in section 3.4. and Appendix 3 of the JTA Proposal for the 2015 Compliance Fee mechanism. These describe the criteria for application, the process and timetable for making an application, how applications are judged and awarded, the timings for drawdown of funds and completion of projects and the

<p>address the scenario of low up take and minimal levels of funds being collected.</p>	<p>requirement to submit a Project Evaluation report at the completion of the project to validate that the funds have been spent for the purpose intended.</p> <ol style="list-style-type: none"> 2. The Proposal describes how the funds should be utilised e.g. organisations, including Local Authorities, can put forward applications for funding to support WEEE improvement projects that seek to support higher levels of collection, recycling and legitimate re-use of WEEE or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive. 3. In the event of low up take and minimal levels of funds being collected the JTA Proposal describes that a) if there are insufficient funds to cover the administration and management costs incurred then JTAC will pay any uncovered costs and b) if there are insufficient funds after administration and management costs have been covered to justify a national call for applications, the Administrator and JTAC will discuss and agree with BIS how best to utilise the funds that are available to improve the UK WEEE system and help the UK to meet its obligations under the WEEE Directive.
<p>Set out how validation will take place to show that the funds have contributed to higher levels of collection, recycling and re-use of WEEE and/or wider obligations in the WEEE Directive.</p>	<p>Once a successful applicant organisation has completed the project for which the Judging Panel allocated funds from the Compliance Fee funds they are required, as a condition of the application, to submit a Project Evaluation report within 3 months of the completion date. The Administrator will provide a template Project Evaluation form to simplify this process for the applicant organisation and also to ensure that all the relevant data is reported.</p> <p>The Administrator will assess the Project Evaluation report when received against the approved application for funds to validate that the actual spend of the funds</p>

	<p>compare against the intended use and how the actual improvement results compare with those set out in the original application and clarify any points as necessary with the applicant organisation.</p> <p>The Administrator will prepare a summary report of all the Project Evaluation reports and submit that to BIS for discussion about the overall improvements reported and any issues.</p> <p>Cross reference = Appendix 3 of this Proposal.</p>
Set out the governance arrangements for the receipt and disbursement of any compliance fees paid.	<p>The governance arrangements in the JTA 2015 Compliance Fee proposal for the receipt and disbursement of any compliance fees paid are shown in detail in sections 3.3, 3.4 and 5 of the Proposal and in summary are:</p> <ol style="list-style-type: none"> 1. Mazars LLP, a top 10 UK accounting and audit firm has been selected as the Administrator for the JTA Proposal. This independent Administrator will be responsible for the receipt of all funds into a dedicated client bank account for the 2015 compliance period and all disbursements from those funds either for making approved (by the Judging Panel) funding payments to applicant organisations or for covering the costs for the administration and management of the 2015 compliance fee mechanism. 2. Mazars will appoint a manager to be responsible for all day to day matters relating to the compliance fee methodology, including the receipts and disbursement of any compliance fees paid, and a Mazars Partner will be directly responsible for the operation of the dedicated client bank account.

	<ol style="list-style-type: none"> 3. Mazars will report on a regular basis to the Board of Directors of JTAC (with whom it is contracted to supply the Administrator services) on the performance of the process and the use of the funds. Where required they can also report at an appropriate level of detail to BIS. 4. JTAC has no access to the client bank account nor any information on PCS compliance fee payments into the client bank account; these matters are managed and administered solely by the Administrator. 5. The only purpose for which any funds arising from compliance fees paid may be used are those set out in the BIS July 2015 guidance e.g. <ol style="list-style-type: none"> a. Payments of funds to applicant organisations in respect of applications for funding approved by the Judging Panel to the level approved. b. The payment of costs of administration and management of the 2015 compliance fee mechanism.
Provide evidence of the suitability of the proposed operator that will administer the Compliance Fee Process.	<p>Details of the suitability of the proposed operator (Administrator) to administer the 2015 Compliance Fee process are set out in Section 4 of the JTA Proposal. The JTA propose to appoint Mazars LLP as the Administrator if the Secretary of State for BIS selects the JTA 2015 Compliance Fee Proposal. A summary of their suitability for the role of Administrator is:</p> <ol style="list-style-type: none"> 1. As accountants the management of client money (compliance fee payments) is a standard function, with high levels of confidentiality and governance. A client

	<p>bank account was set up in a straightforward way for the 2014 compliance period and the same will be done for the 2015 compliance period.</p> <ol style="list-style-type: none"> 2. As a UK top 10 accountancy and audit firm they are recognised as having a high level of professional integrity and for being able to act impartially. 3. The calculation of and financial accounting for compliance fee payments will be straightforward to accountants, as has been demonstrated during the 2014 compliance fee mechanism process. 4. Mazars employ over 1600 staff in the UK and have 130 Partners. This ensures good contingency cover in the event e.g. that demand is significantly higher of lower than expected or there is staff absence for any reasons. It also makes available a wide range of experience and expertise to the Administrator role and to the extent it is ever needed makes the setting up of segregated roles to avoid any conflicts of interest straightforward. 5. Mazars are currently operating as the Administrator of the 2014 Compliance Fee Mechanism and have gained considerable experience of how to operate and manage the process. They also now have in place proven processes, systems and experienced staff to support the mechanism. 6. Mazars have in-house IT resources for developing IT based tools to support the compliance fee mechanism and to ensure high levels of security relating to all information.
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4. Proposed timetable for implementation and operation. Proposals should:

Provide a realistic and comprehensive plan for implementation and operation;	
Show a clear process for staffing the proposals;	<p>The JTA Proposal shows a clear process for staffing the proposals, the details of which can be found in Section 4 of the Proposal. In summary:</p> <ul style="list-style-type: none"> • Mazars (the selected Administrator) have a sufficient level of staff in their outsourcing division that they can apply increased or reduced levels of resources to the 2015 Compliance Fee process in response to demand levels. • Mazars have allocated a manager to manage the day to day performance of the Compliance Fee process and a Mazars Partner to take overall responsibility for the process and for governance issues such as confidentiality of information etc. • Mazars are the Administrators of the 2014 Compliance Fee mechanism and therefore experienced staff to operate the 2015 mechanism are already in place if the Secretary of State for BIS selects the JTA Proposal.
Show a clear process for developing and implementing the IT systems;	<p>The process for developing and implementing the IT systems is covered in the Administrator Section 4 of the JTA 2015 Proposal and in summary:</p> <ul style="list-style-type: none"> • Mazars have put in place IT systems to support the 2014 compliance fee process, which have worked effectively and will therefore be used for the 2015 process if the JTA Proposal is selected. As a result there will be no immediate need for the development and implementation of new IT systems. Within the current IT systems all data submitted is held and retained on secure servers.

	<ul style="list-style-type: none"> • The systems implemented to date are appropriate excel spreadsheets but if the level of demand ever requires more sophisticated systems e.g. an on-line portal, Mazars have the expertise and flexibility to develop and implement them. • Mazars have experience of dealing with high level IT security e.g. for listed companies and will apply those levels of security to the Compliance Fee process.
Demonstrate an understanding of project dependencies;	<p>The JTA Proposal demonstrates an understanding of project dependencies, which is outlined in the process and timetable graphics in Sections 3.3 and 3.4 of the Proposal.</p> <p>The most time-critical element of the compliance fee process will be the setting up and completing of the PCS compliance fee calculation and payment stages, due to the limited time available between the date of the expected announcement by BIS regarding a compliance fee and the 31st March 2016 when all PCS's are required to complete their declarations of compliance to the Environment Agencies. In this context Mazars, as the Administrator of the 2014 Compliance Fee mechanism, already has in place an established and proven process and system to ensure that PCSs can submit data which can be validated and lead to the payment of compliance fees in the limited time available - see Sections 3.3 of the JTA Proposal.</p> <p>For the disbursement process the JTA Proposal sets out a full timetable for applicant organisations to submit applications for funding, which shows the various stages of the overall process, which takes approximately 18 months before project funding is fully spent and validated. These stages will be closely monitored by the Administrator and JTAC to ensure timely completion of each phase. The process is sufficiently flexible to handle change where it is agreed with BIS. An example of this occurred in the 2014 compliance period where the</p>

	<p>timing of the disbursement process was delayed to fit into a combined call for funding from the Compliance Fee funds and DTS funds.</p>
<p>Have appropriate contingency plans in place.</p>	<p>The JTA Proposal incorporates contingency planning. In summary these are:</p> <ol style="list-style-type: none"> 1. Selecting an independent Administrator (Mazars) who have sufficient resources and expertise in all relevant areas e.g. managing processes; accounting/auditing and IT solutions, that they are able to adapt the level of resources applied to the compliance fee process to reflect the level of demand. 2. In the event of low up take and minimal levels of funds being collected the JTA Proposal describes that a) if there are insufficient funds to cover the administration and management costs incurred then JTAC will pay any uncovered costs and b) if there are insufficient funds after administration and management costs have been covered to justify a national call for applications, the Administrator and JTAC will discuss and agree with BIS how best to utilise the funds that are available to improve the UK WEEE system and help the UK to meet its obligations under the WEEE Directive. 3. In the event that there are residual or unallocated funds available from the compliance fee payments after the Judging Panel has awarded applications the Administrator and JTAC will discuss with BIS how those funds should best be used to support the UK obligations under the WEEE Directive. <p>For fuller details see Sections 3.3, 3.4 and 4 of the JTA Proposal</p>

5. Experience of proposer and proposed operator. Proposers and proposed operators should demonstrate:

<p>A proven track record of financial probity combined with practical experience of working in a regulatory environment,</p>	<p>The JTA Proposal demonstrates a track record of financial probity and practical experience of working in a regulatory framework. In summary:</p> <ul style="list-style-type: none"> • The JTAC selected Administrator (Mazars) are a leading UK and international accounting and audit firm, with a strong track record of financial probity and managing client bank accounts with high levels of control and integrity. • JTA and its Members, and Mazars as the Administrator, have practical experience of working in a regulatory environment and particularly in that of the WEEE Regulations and other related Regulations such as Waste Management. <p>For fuller details see Sections 1 and 4 of the JTA Proposal.</p>
<p>A clear strategy for identifying and effectively mitigating risks arising as a result of any conflicts of interest</p>	<p>The JTA Proposal demonstrates a clear strategy for mitigating risks arising as a result of any conflicts of interest. In summary:</p> <ul style="list-style-type: none"> • The JTA has formed JTAC to manage the contract with the Administrator and within that contract Mazars will not disclose any PCS information to JTAC (whether it be commercially confidential or not). The information that will be provided by Mazars to JTAC will be the necessary high level performance indicator information needed to monitor that Mazars are managing the compliance fee process effectively. • Within Mazars there are strict procedures in place to manage any potential conflicts of interest between different clients.

	For fuller information see Section 5 (Governance) and Section 4 (the Administrator) of the JTA Proposal.
Experience of setting up systems to allow data to be submitted and processed effectively	<p>The JTA Proposal does demonstrate the experience of the Administrator with regard to setting up systems as follows:</p> <p>One of the criteria for JTAC in selecting an Administrator for the compliance fee process was their experience of and resources for setting up systems. Mazars, as a large accounting and audit firm, have the necessary experience and in-house resources (in respect of IT, accounting/auditing and management) to set up the compliance fee systems that are required and have demonstrated that in respect of the 2014 Compliance Fee mechanism where they have set up, and operated successfully, systems allowing data to be submitted and processed effectively. These systems will also be used for the 2015 Compliance Fee mechanism if the JTA Proposal is selected.</p> <p>For fuller details see Section 4 of the JTA Proposal</p>
Experience of developing robust proposals for Government	<p>The JTA Proposal demonstrates experience of developing robust proposals for Government.</p> <ul style="list-style-type: none"> • The JTA Trade Association members plus the supporting PCS members all have experience of developing proposals for and responding to proposals from, Government. • Mazars, the JTA selected Administrator, also has experience of developing proposals for Government, including through the 2014 Compliance Fee mechanism. <p>For fuller information see Sections 1 and 4 of the JTA Proposal</p>

6. IT systems. Proposal should demonstrate:

Appropriate IT systems, including backup systems	<p>The JTA Proposal demonstrates that appropriate IT systems are being proposed and will be implemented appropriately. In summary:</p> <ul style="list-style-type: none">• IT systems are already in place, based on the 2014 Compliance Fee mechanism if the JTA Proposal is accepted. These systems have been very effective and are set up at an appropriate level for the task. They have been kept straightforward, e.g. data collection is via excel spreadsheets, but are fully effective. If the level of demand should ever require more sophisticated systems e.g. an on-line portal, then the Administrator (Mazars) have the expertise and flexibility to develop and implement that. All data submitted is held and retained on secure servers.• Mazars have the experience of dealing with high level IT security e.g. for listed companies, and will apply those levels of security to the Compliance Fee process of the JTA Proposal.• In terms of back-up Mazars protects its information by establishing and maintaining an information management system following the best practice controls set out in ISO/IEC 27001. Within this context, Mazars has in place controls over both virtual and physical security including disaster recovery plans, automatic data back-ups and power outages”.• Part of the rationale for selecting Mazars as the Administrator for the JTA compliance fee proposal was that as a leading accountancy/audit firm they are large enough to have sufficient resources both in terms of qualified people but also IT resources such as servers, software etc.
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	For fuller details see Sections 3.3, 3.4 and 4 of the JTA Proposal
Appropriate IT support	<p>The JTA Proposal demonstrates appropriate IT support as follows:</p> <ul style="list-style-type: none"> • The Administrator selected for the JTA Proposal (Mazars) has sufficient, qualified, in-house IT resources to support the IT systems to operate the compliance fee mechanism and respond to any changes relating to it. • In addition, in the background, FTI Consulting would be available, if they were required, to support any further development needed in response for example to Regulatory changes requiring changes to the compliance fee methodology. <p>For fuller details see Section 4 of the JTA Proposal.</p>

Appendix 5
Example Application Form

(The final application form, together with support Guidance Notes will be developed as part of detailed implementation planning if the JTA 2015 Proposal is selected.

WEEE Compliance Fee Fund

Application for Funds to support a WEEE Improvement Project:

Application Form

Important Notes:

- Please read the associated **WEEE Improvement Project Guidance Notes** before completing this form.
- Please complete all relevant sections. Incomplete applications will not be considered.
- Applications must be submitted by 31st August 2016
- Late submissions will not be accepted.
- If you have any queries or need further assistance, please email xxxxxxxxx
- No information will be considered beyond that contained in the application form

Submission Instructions:

Submit your application by 31st August 2016 by email to xxxxxxxx

Electronic applications are preferred but postal applications will be accepted to: xxxxxxxx

1. ABOUT THE APPLICANT(S)

- 1.1. Please provide the contact details for the lead Organisation making this application, the contact for this application and the main day to day contact for the project (if different):

Lead Organisation name:	
Address:	
Main telephone no.	
Authority type:	

Contact name for application	
Position:	
Address: (if different from above)	
Direct line telephone no:	
Email:	

- 1.2. Please provide a list of the partner organisations involved in this bid (increase number of lines if more than 3 partners)

Organisation name	Type of organisation

2. INFORMATION ABOUT THE GEOGRAPHIC AREA OR SUBJECT COVERED BY THIS PROJECT PROPOSAL

Area/subject covered by the proposal	
Existing WEEE collection arrangements in the area or existing status of the subject of the application.	
Existing WEEE reuse services in the area or how they apply to the subject of this application.	
Recent WEEE activities i.e., promotional or awareness raising relating to WEEE services in the area or relating to the subject.	
Size of population in area covered by proposal or other relevant metric or influenced by the subject of this application.	
Number of households or other relevant metric covered in this area or subject.	

2014 and 2015 (or most recent data available) total tonnage of separately collected WEEE for area covered by proposal or relevant metrics of the subject of the proposed project.	2014 : 2015 :
2014 and 2015 (or most recent data available) total tonnage of separately collected WEEE as expressed by kg per head of population of area covered by project proposal or relevant metrics of the subject of the proposed project.	2014 : 2015:
2014 and 2015 (or most recent data available) total tonnage of WEEE sent for reuse for the area covered by project proposal or other relevant metrics of the subject of the proposed project.	2014: 2015:

3. PROJECT OUTLINE

Note: No additional project information should be sent with this application as it will not be assessed with the application.

Project start date	
Project finish date	
Please give a brief outline of the project. Include details on e.g. the type of WEEE to be collected, the focus and impact of the subject of the project, roles and responsibilities of the different partner organisations. Highlight any particularly innovative features Max 300 words	
Please explain how this project is additional to current WEEE related activity and whether the project is linked to any other activities related to WEEE or wider recycling in the area or in respect of the subject of the application Max 150 words	
Please provide project milestones	
Please identify major risks and describe how these will be managed.	
Describe how the results and good practice arising from the project will be shared with other organisations eg via NAWDO/LARAC meetings/publications, press notices, websites, trade press articles, conferences etc.	

4. PROJECT OUTCOMES – answer all relevant questions

Indicate predicted increased tonnage of separately collected WEEE as a result of this project? Show how you have calculated this and how you propose to measure it.	
Indicate predicted increased tonnage of WEEE diverted from recycling to reuse as a result of this project? Show how you have calculated this and propose to measure it.	
Outline any social benefits of the project e.g. re-training and educational benefits, impact on low income householders, community, third sector involvement, household awareness raising.	
Describe how key outcomes and any necessary funding will be sustained beyond the period of any project funding that may arise from this application.	
Describe the impact on the project should this application for funding be unsuccessful	

NB AMEND THE WORDING OF THESE BOXES TO MORE ACCURATELY DESCRIBE THE IMPROVEMENT TO THE UK WEEE SYSTEM THAT YOUR PROJECT IS TARGETING.

5. FUNDING AND RESOURCES

Please provide a budget for the project of this new activity:

Total project funding sought through this application (£)	
Breakdown of financial contributions provided by project partners £	
Breakdown of in-kind contributions provided by project partners along with the associated financial equivalent value (£)	
Total Project Budget (£)	
Breakdown of estimated project costs, eg management/staffing, marketing, capital expenditure, PR, printing, advertising, operating costs etc	
Total Project Costs (£)	

DECLARATION

I declare that:

The information given on this form and in any other documentation that supports this funding application is accurate to the best of my knowledge.

I understand that, where any materially misleading statements (whether deliberate or accidental) are given at any stage during the application process, or where any material information is knowingly withheld, this could (at the discretion of the panel) render this application invalid and any funds received by us will be liable for repayment.

I confirm that my organisation will take all reasonable precautions to ensure that any funding received will not be misused or misappropriated in any way. In the event of a fraud, I understand that the administrator of the WEEE Compliance Fee Fund may take legal action to recover any misappropriated funds.

I agree that in the event that the project for which funding is granted does not proceed or the funding is not fully spent on the project by 31 August 2017 the funds advanced (or unspent balance) will be repaid to the WEEE Compliance Fee Fund administrator.

I agree that in the event that a project evaluation report is not submitted within 3 months of the project ending any funds received will be liable for repayment

I agree that the information supplied on this form, including individual contact information, will be used to chart the success of the project and for monitoring purposes.

To be signed by person completing this form

Signed:	
Print Name:	
Position:	
Organisation Name:	
Date:	

To be signed by a Director or other authorised senior manager of the organisation making this Application.

Signed:	
Print Name:	
Position:	
Contact email address and phone number	
Date:	

To be signed by other project partners:

Signed:	
Print Name:	
Position:	
Contact email address and phone number	
Date:	

Signed:	
Print Name:	
Position:	
Contact email address and phone number	
Date:	

Signed:	
Print Name:	
Position:	
Contact email address and phone number	
Date:	

Appendix 6

Summary of the main changes in the JTA 2015 Compliance Fee Proposal compared to the JTA 2014 Compliance Fee Proposal.

1. Whilst we consider the 2014 Compliance Fee mechanism has worked very effectively with no reported complaints from Users, the JTA decided to commission an economic assessment of the effectiveness of the 2014 compliance fee methodology from Frontier Economics Ltd (Frontier) and their report is attached as Appendix 2. The decision to use a different professional economics firm to do this assessment, rather than the firm we commissioned to help develop the JTA 2014 methodology (FTI Consulting) provides a further level of independent scrutiny of the methodology proposed. This independent review of the JTA 2014 Compliance Fee mechanism came to a series of conclusions, which are listed in the Summary section of their Report, attached as Appendix 2. Some of the more significant conclusions are summarised here:
 - a. Retaining a Compliance Fee is essential in achieving beneficial economic outcomes.
 - b. Using compliance fees raised to provide funding for WEEE recycling improvement projects is likely to be the best way to encourage greater WEEE collection, recycling and re-use rates.
 - c. The form of escalator (and methodology) employed for the 2014 compliance fee mechanism has had a beneficial economic effect
 - d. Any WEEE stream with a positive net value should attract a zero compliance fee.
 - e. Individual PCSs net positions should not be published.
2. The Frontier report concluded that the 2014 methodology, including the escalator mechanism, worked well and did not need to change. They proposed two areas of potential improvement:
 - a. Make it clearer in the Proposal that all streams that have a net positive value in a compliance period will have a zero compliance fee. If the stream changes in a future compliance period to a net cost then it will have a compliance fee. This clarification has been incorporated into the JTA 2015 Proposal.
 - b. That it would be helpful to have the same compliance fee regime in place for several years, if it gave rise to good economic outcomes. This will be a matter for BIS to consider for future compliance periods.
3. The JTA 2015 proposed compliance fee mechanism is based on the successfully implemented 2014 mechanism, with some improvements. As a result the systems and procedures for operating the mechanism are already in place and therefore the proposals in the JTA 2014 Proposal regarding systems set-up and implementation have been deleted.
4. To further encourage compliance through collection, PCSs that use the compliance fee to cover a shortfall of more than 10% against their collection target in any stream will be required to pay an administration fee of £2000 per stream, up to a maximum of £5k for a PCS across all streams, as a contribution towards the overhead costs of operating the 2015 Compliance Fee mechanism. Any such administration fee paid will be offset against the overhead costs, thereby leaving more

funds available for disbursements. Setting the level at 10% with a maximum amount of administration fees for any PCS of £5000 is considered to be a proportionate measure to further encourage compliance by collection.

5. The Proposal has been modified to incorporate the BIS 2015 Guidance.
6. The 2014 Compliance Fee mechanism and its associated methodology, approved by the Secretary of State for BIS, worked in line with the documented Proposal. Additional detail was developed by the Administrator as part of the implementation of the compliance fee calculation and payment process. The disbursement process has, with the encouragement and support of BIS, been modified. This was to enable the timing of the call for funds to be coordinated with that of the DTS call for funds as both schemes had similar award criteria. This change was supported by Local Authorities as it reduced the administration work of having to make two separate applications. The 2014 Compliance Fee mechanism was sufficiently flexible to accommodate this change and in the 2015 Compliance Fee Proposal we have incorporated the possibility of this cooperation again, if the availability and timing of funds coincide and the award criteria between schemes is consistent.
7. Additional explanation has been added regarding the independent review that PCS's have to undertake to verify the data they submit to the Administrator. (para 3.3.2.3 of the proposal). This is to demonstrate that the work and associated costs are naturally proportionate to the size of the PCS and the amount of tonnes and streams for which they wish to use Compliance Fees. Information about the numbers of registered auditors that can provide such independent review services, has also been added.