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From: CENELEC TC111x/WG6

Subject: Feedback on “Study on quality Standards WEEE”

Dear Mrs. Lorz, Mrs. Edou, Mrs. Tesar, Mrs. Wolf

TC111x/WG6 would like to thank DG ENV and the consultants from the Environment Agency Austria and Umweltbundesamt GmbH and Dr. Brüning Engineering UG for sharing the background documents from the planned workshop (initially scheduled on March 10th, 2020). TC111x/WG6 acknowledges the open dialogue held between the European Commission, the consultants and CENELEC during the study, and we welcome the evolution of the work produced by the consultants.

TC111X/WG6 would like to thank DG ENV for extending the time allowed for commenting on the workshop materials.

With this letter, TC111X/WG6 provides feedback on the various documents produced as part of the “Study on quality Standards for the treatment of waste electrical and electronic equipment (WEEE)”. This letter provides argumentation on the strong preference of TC111x/WG6 for the first option (option 1), over the other options ((Book III) 2020). These argumentations are given in Annex I of this letter. In Annex II of this letter specific comments on the books I and III are provided. These comments were concluded and agreed by the majority of TC111x/WG6 in several meetings.

We would first like to address a number of general issues of particular relevance that TC111x/WG6 identified in the background documents:

The difference between facts and opinions is not clearly visible in some areas of the text throughout the study. We suggest using footnotes indicating the source when presenting information as being a fact, so the information can be easily verified by the reader.

The study shows some confusion between WEEELABEX (a certification body) and CENELEC (a standardisation organization). Examples are provided in annex II. It should be noted that CENELEC has no certification or auditing function. We believe understanding this distinction is relevant for identifying the implementation of the different roadmaps proposed by the consultants. In addition to this, whilst **WEEELABEX is a private accredited certification body**, CENELEC is the producer of the EN 50625 series and EN 50614 standard. Moreover, the consultants seem to conclude that only certification is allowed for showing conformity against the standards, when **there are other methods available like for instance self - declaration and conformity verification by a second or third party, being those accredited or non-accredited certification or inspection bodies.**

The study seems to imply in some instances that EN 50625 series conflict with BAT requirements. The experts of TC111X/WG6 disagree with the views of the consultants and are of the opinion that the Standards were written to show compliance to the WEEE Directive and other relevant EU legislative texts, including BAT. If there is a revision of BAT, it will be able to incorporate the EN 50625 Standard series which addresses the technical requirements set down in Annex VIII of the WEEE Directive.

Chapter 5 of ((Book III) 2020) proposes a future approach for EU WEEE treatment requirements and recommends option 2. Option 2 suggests laying down additional minimum requirements for the collection, logistics, handling, treatment and preparing for Re-use of WEEE in EU legislation (via an Implementing Act to the WEEE Directive, and/or by amending relevant Articles and Annexes of Directive 2012/19/EC). The additional requirements in the legislation could consist of key requirements including inter alia basic process requirements, target and limit values related to de-pollution, an emission prevention requirement, and basic obligations related to monitoring of WEEE materials until final recycling/disposal and to determining the recycling/recovery rates (text copied from study). This option suggests as well to possibly refer to CENELEC requirements when dealing with specific technical issues, like for example, de-pollution and de-pollution monitoring. With regards to this issue, TC111x/WG6 is of the opinion that the principles of Article 8 of the WEEE Directive and Mandate 518/2014 should be strongly considered in the proposal presented by the consultants in this study.

The EN 50625 series and EN 50614 Standard were developed and finalized by CENELEC to meet the objectives of the Mandate, with the purpose of addressing the needs of the minimum treatment requirements referred to in Article 8 of the WEEE Directive. After a long process (eleven plus years) involving relevant stakeholders and technical experts, and an enormous amount of efforts by all to achieving consensus, we believe that direct reference to the whole set of Standards should be considered the main option for implementing minimum treatment requirements in Europe (the administration expenses of CENELEC and members of TC111x/WG6 and WG7 are estimated to be in excess of € 5,000,000 on the mandated series of standards).

To summarize, whilst TC111x/WG6 can accept the principles of the study, our assessment of the views put forward are not in agreement with the vision of the majority of TC111x/WG6.

In the following documents, we set out our support for option 1.

We thank you in advance for your consideration of our comments and remain at your disposal for further positive exchange of views.

We remain at your service for further support.

Convenor TC111x/WG6, Bart.intgroen@dnvgl.com

Annexes to this letter:

Annex I: Why option 1 is strongly preferred over the other options

Annex II. Specific comments on book I and III

Bibliography

(Book I), Umweltbundesamt GmbH and Dr. Brüning Engineering UG. 2020. *Book I, Analysis of the European Standards for the treatment of WEEE in relation to the requirements of the WEEE Directive 2012/19/EU*. Brussels: European Commission.

(Book II), Engineering, Umweltbundesamt GmbH and Dr. Brüning. 2020. *Book II, Situation in EU Member States regarding the implementation of WEEE treatment requirements, experiences made and practices applied*. Brussels: European Commission.

(Book III), Prepared by Umweltbundesamt GmbH and Dr. Brüning Engineering. 2020. *Book III, Analysis of options regarding the treatment requirement of the WEEE Directive in economic environmental and social terms*. Brussels: European Commission.

(Book IV), Umweltbundesamt GmbH and Dr. Brüning Engineering UG,. 2020. *Book IV, Analysis of options for criteria to assess equivalent conditions for WEEE recycling operations taking place outside the EU*. Brussels: European Commission.

Annex I: Why option 1 is strongly preferred over the other options

This annex sets out the opinion of TC111x/WG6 and WG7 on the disadvantages identified in the chapter 4.2 ((Book III) 2020).

- Democratic law-making process and transparency:
 - The risk of not adequately considering the experience of less resourceful stakeholders is equally relevant for all options, hence it should not be a decision factor.
 - The risk of not being transparent in the standardisation process is non-existent, because the development of the Standards followed a democratic and transparent process, including open stakeholder consultations, unrestricted commenting, and public consultation and voting rounds. Member attendance is registered for each meeting, with the details of who they are and who they represent. National committees ensure all areas of the industry are included so as to not allow undue bias and influence of one particular sector.
 - In respect of comitology, all National Standardization Committees have mirror working groups to that of TC111x, and can raise objections during the development process of a Standard and for revisions. Issues are fully debated, and text recirculated by TC111x/WG6 and WG7 to all National Standardization Committees until a consensus is achieved.
- Free access to law
 - Risk of cost of standards: financial arrangements can be made with the European and National standardisation bodies to make Standards freely available (example CEN CENELEC guide 28).
 - Risk of not being available in different languages than English, German and French: Following other precedents set by the European Commission for harmonised Standards, the risk could be eliminated if funding was made available to CENELEC and by the EC for the Standard to be translated into other EU languages.
- Enforcement activities
 - The Standards under M518 do not specify any conformity verification method. Therefore, conformity assessment covers in principle all activities carried out by a specific entity (1st, 2nd or 3rd party) to demonstrate that processes and/or, services, meet the specified requirements. These activities can include testing, inspection, evaluation, examination, auditing, assessment, declarations, certification, accreditation, peer assessment, verification and validation. There are a number of the above-mentioned methods that could be applicable to the M518 series of standards. Third party certification is only one explicit example to show conformity to EN standards.
 - There is no evidence that additional costs would be needed should there be higher national requirements than in the standards. Options 1 and 2 could be equally affected by higher national requirements. It could also be considered that enforcement agencies need to spend less time at facilities that meet the requirements in the Standards and so have more time to follow-up on those

- actors who are not part of the legitimate system.
- The Standards under M518 addresses all WEEE categories, without any explicit allowance for exemptions or exclusions.
- The Standards do not allow loopholes because any WEEE received at a facility, that is not treated at the same site, can only be transferred to another WEEE recycler working in accordance to the standards.
- Standards produced under M518 are an integrated set of standards. Requirements in these Standards interlink with each other and cannot be seen as individual Standards or even as individual requirements.
- Collection and logistics
 - The experts of TC111x/WG6 were aware of the issues associated to collection and logistics of WEEE when writing the TS 50625-4. The TS 50625-4 addresses the main issues identified.
 - The risk of not adequately taking the collection and logistics network into account applies to both option 1 and option 2, therefore it should not be considered a decision factor for recommending one option or the other.
- Costs
 - Option 1 decreases the burden on the taxpayer for environmental authorities, compared with option 2, which would require them to have trained, experienced and knowledgeable officers in place that are capable of assessing compliance.
 - Compliance with the Standards can be shown in various ways, certification is not the only way. The normative requirements of the Standards under M518 apply, and it is up to the environmental agencies and legislators to define how these requirements shall be verified. The Standards give no requirements on any verification methods to be used.
 - Reference to fees by one auditing organization should not be considered as being representative in the study as there are several other alternative certification bodies who may have different or no costs.
- Possible market distortions
 - Option 1 does not automatically imply mandatory external certification, as mentioned previously, nor does it imply having to follow the auditing procedures set by the WEEELABEX Organization. For example, the WEEELABEX Organisation requires the batch test to be observed by at least one WEEELABEX approved auditor, where-as the Standard has no such observation requirement, but only requires the batch to be validated.
 - CENELEC is constantly working to ensure existing Standards continue to be 'fit for purpose'. The CENELEC review processes ensure stakeholder involvement and timely revisions of Standards so they stay 'up to date' and aligned with state-of-the-art technology and WEEE stream compositions. Suitability of requirements is considered in every revision process. It should be noted that a revision process can take place in a relative short term and take a shorter period compared to the anticipated long revision and updating process of option 2.

- Certification market
 - The Standards under M518 do not specify any conformity verification method. There are a number of methods that could be applicable, such as a third-party conformity assessment done by an independent certification body that issues the relevant certificate, or by means of a second party audit or self-declaration.

TC111X/WG6 suggests several other advantages of the implementation of option 1:

- The CENELEC Standards are now fully published and available across the EU.
- We noted that should option 0 be chosen, then this presents an unlevel playing field on treatment standards, given that the WEEE Directive has been open to different interpretations and national requirements set down in Member State legislation – for example, Article 23 ‘Inspection and Monitoring’. Option 1 therefore presents the opportunity to create a level playing field across the EU.
- Should option 2 be chosen then it is anticipated that any legal text will require more research and public consultation and revisions. This process is likely to take many years and in the meantime the status quo may allow less efficient and environmentally sound practices in some areas to continue. Option 2 would mean that in effect option 0 is in place for the foreseeable future. This will appear to sanction the on-going low-quality operations whose administration continues to gain unfair competitive advantage and allow the EU to lose out on secondary raw materials, hindering the achievement of a circular economy. It should be noted that development of the Standards under Mandate M518 took almost 10 years to achieve a consensus and publication, even though a base document was already available through the WEEELABEX project. Option 1 therefore presents the opportunity for a quicker implementation.
- Innovations in recycling technology and processes could be inhibited because of the slow revision processes under option 2. Fast changes in EEE-technology require fast changes in recycling options. Due to CENELEC rules the Standards applied under option 1 can be regularly updated (EN documents after 5 years, TS documents after 3 years). For option 1 a timetable is already in place for revisions in line with standardisation rules.
- With option 1, a level playing field is created for Member States and WEEE treatment operators for collection, logistics, preparing for Re-use and treatment of WEEE. This is essential to encourage investment and job creation and ensure proper and equivalent treatment of WEEE across Europe, and to avoid that some WEEE remains treated by less efficient and environmentally sound management operators.

Annex II. Specific comments.

This Annex provides specific comments to Book I and III.

Comments on Book I ((Book I) 2020)

Page No: (Book I) 2020)	Paragraph / Section	Text	Comments
5	Objectives 2 nd bulletpoint	To check which requirements of the CENELEC standardisation deliverables are derived directly from the legal text of the WEEE Directive or other relevant EU law, and which may go beyond the requirements of the WEEE Directive or other relevant EU law	TC111x/WG6 would like to point out that the publication of Annex ZZ is particularly related to harmonized Standards and requires a consultant to be appointed by CENELEC and the European Commission to the working group to assist on legal matters.
10	Main results – last bullet point	The Standards and the Report on the alignment between Directive 2012/19/EU and EN 50625 series Standards and EN 50614 have not been found distinguish between requirements derived directly from the legal text of the WEEE Directive or other relevant EU law, and requirements that go beyond the requirements of the WEEE Directive or other relevant EU law by using hard or soft requirements or normative and informative text as signifiers. If this was the case, requirements derived directly from the WEEE Directive should have been put in the normative text and formulated as hard requirements and requirements that go beyond the Directive should have been put in notes or informative annexes or formulated as soft requirements. The analysis however showed that several requirements considered as going beyond the WEEE Directive are placed in the normative text as hard requirements. For example, the details concerning methodologies for sampling, sample preparation and analyses are found in normative annexes and formulated as hard requirements and not in informative Annexes.	International standardisation drafting rules require references to other existing laws to be included as a note as companies (e.g. the recyclers and Re-use operators) are required already under the law so this does not need to be repeated in the text of the standard. Existing laws are therefore not normative in the drafting of a Standard but are included as a note for reference. Should a law change, then the note is just the informative pointer towards it and the reader should refer to only the most-up-to-date legal texts. If the laws “had” been included in the Standards then every time there was an update the Standards would also need to be changed. This is a good argument for implementing option 1.
12	2 para	[reference the specific treatment steps for TEE] It is stipulated that step 1 and step 2 treatment have	The Standards are not specifying technologies to be used, but set limit and target values on de-pollution

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		to be done in encapsulated systems.	monitoring. Recommend changing the sentence “It is stipulated that step 1 and step 2 treatment have to be done in encapsulated systems.” to: De-pollution monitor requirements set down the expected minimum output for step 1 and step 2 treatment.
12	3 para	In summary, the Standards set targets, especially for de-pollution performance, but in general do not specify the processes or technologies by which the targets have to be met.	There are many different types of plants and technologies etc. plus new / developing technologies coming through or may yet to be invented, that it cannot be assumed that the Standards can or should include all the current specific processes or technologies as this could prevent (for example) many operators with only manual systems from working, or those investing millions in new ideas that could not be implemented as they had not been included. Recommend changing text to (new words in bold): In summary, the Standards set targets, especially for de-pollution performance, but in general do not specify the processes or technologies by which the targets have to be met as it has been recognised that there are many different dismantling and de-pollution processes and technologies in place across Europe, and to encourage innovation in emerging or yet to be thought of solutions.
12	Last para	Overall it can be stated, that the handling of batteries is addressed in the standardisation deliverables. However, it would be an improvement to request special safety measures not only for lithium batteries but for all types of batteries. In particular, there could	The requirement for collection/logistics sites to better handle the incoming WEEE from the householders or businesses was rejected during the development of the TS 50624-4. The personnel and space available at these sites does not allow for the

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		<p>be more requirements for the collecting, handling and treating high energy batteries, as they present a high fire risk when handled inappropriately.</p>	<p>safe removal of all batteries at collection points, therefore the safety risk remains (i.e. generally no dedicated space or suitable tools and specialist knowledge).</p> <p>ADR requirements for packaging and labelling relate to the “transport” of batteries and NOT how they are collected, stored or handled at a treatment site.</p> <p>Recommend the removal of part of the last sentence: (... there could be more requirements for the collecting, handling and transportation of batteries...)</p>

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Comments on Book III ((Book III) 2020)

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13	Section 2.3	The surveys among recyclers and auditors revealed that the vast majority of the selected key requirements are requirements being a specification of the WEEE Directive or going beyond the WEEE Directive/other EU law	<p>The evidence provided by WG6 showed that this statement is incorrect. Whilst some aspects are not included in the WEEE Directive, the majority of other criteria is covered under other EU law and also National laws. Recyclers may not be fully aware of all EU law, especially those that have not undergone verification to the EN 50625 Standard. Auditors not working across every WEEE category may also not be aware of all pertinent EU laws.</p> <p>TC111X/WG6 have provided detailed responses where it is considered (with evidence) that the research had not been fully explored. It would be insupportable to assume from survey results of 47 recyclers (<i>est. at less than 5% of all EU recyclers</i>) and 25 auditors that “the vast majority” of requirements were above the Directive or EU law.</p> <p>Recommend changing text to: Whilst the surveys among recyclers and auditors revealed that some considered the vast majority of the selected key requirements are requirements being a specification of the WEEE Directive or going beyond the WEEE Directive/other EU law, this was established not to be the case, and only a small number go beyond the obligations.</p>
18	Section 3.1.1, 4 para	According to information collected within this study, BFR-plastics from screens and small appliances is often neither separated nor is any proven guarantee given that the downstream operator performs this separation.	<p>It is uncommon that a WEEE recycling company also has a plant that can separate plastics. This may be down to space, availability of funds and/or lack of specialist knowledge. It is more often the case in Europe that WEEE recycling companies will work with downstream treatment facilities.</p> <p>It should be made clearer in the text that recycling</p>

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			<p>companies are not legally obligated or are required in the EN 50625 Standard to carry out all the treatment operations themselves as this misunderstanding may have a major impact on recyclers.</p> <p>Recommend changing text to: ... plastics from screens and small appliances is often neither separated at the first recycling facility, nor is any proven guarantee provided to them that the downstream operator performs this separation.</p>
25	4 para	<p>According to the information collected within this study, monitoring of the de-pollution performance regarding fluorescent coatings from CRTs is usually not performed unless facilities implement the CENELEC standards.</p>	<p>Recycling companies do not have to carry out the de-pollution of the cathode ray tube when it is liberated from the casing. This can be done by a downstream treatment partner who should have evidence of the compliant removal and disposal route of the fluorescent coating and onward recycling or disposal of the lead funnel glass. National laws also (in some Member States) require the removal of the fluorescent powder so this is not just a requirement of the EN 50625 Standard.</p> <p>This should be made clearer in the text as the assumption given is that this is done at one/the same first recycling site.</p> <p>Recommend changing text to: According to the information collected within this study, monitoring of the de-pollution performance regarding fluorescent coatings from CRT equipment is usually not performed unless facilities implement the CENELEC Standards or is required by National laws. The first recycler may not have the ability or specialist equipment to carry out the de-pollution activity and the cathode ray tubes may be sent to</p>

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			downstream treatment partners who should be able to evidence that the de-pollution has been completed. The Standards foresee this approach.
28	2 para	On the other hand, some of the requirements of the existing WEEE Directive are often not yet fully met. This includes for example sufficient removal of capacitors from various WEEE categories.	Not all capacitors are required to be removed – e.g. those under 25mm. A footnote could describe ‘in-scope’ capacitors. Recommend changing text to: On the other hand, some of the requirements of the existing WEEE Directive are often not yet fully met. This includes for example sufficient removal of in-scope capacitors from various WEEE categories.
29	1 para	...according to EN 50625-2-2 and TS 50625-3-3, „low“ costs are estimated. For implementing (sufficient) removal of capacitors from CRT equipment according to the survey, „low“ on-off costs are expected.	See above – not all capacitors are required to be removed. Recommend making the same amendment as above.
29	4 para	Implementing weatherproof covering at storage areas – if not existing – can require „high“ one-off costs.	This is not the case – the use of waterproof tarpaulins are a very „low“cost solution. Recommend changing text to: Implementing fixed weatherproof covering at storage areas – if not existing – can require „high“ one-off costs. The use of temporary waterproof tarpaulins can be a very „low“ cost solution.
29	Both paragraphs under this heading (5 & 6)	Horizontal requirements....	The base line requirements referred to in these two paragraphs reflect Standard operating procedures, and do not respect the legal obligations of recycling companies under EU Law through site permit conditions (<i>i.e. Waste Framework Directive</i>); health and safety legislation and employment legislation to (a) have an administration system needed to record inputs and outputs and activities; (b) assess and limit

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			<p>health and safety risks of their operations to their employees and the environment; and (c) safety of employees whilst working at the facility (e.g. providing training).</p> <p>EU recycling companies, regardless of the compliance with the EN 50625 Standard are required to protect their employees from risks, injury and contamination through assessments and training. All businesses consider administration control as a core business function, including prevention of theft.</p> <p>TC111x/WG recommends the text should be removed or amended to respect legal obligations under other EU laws.</p>
29	7 para	<p>The fee for the auditing organization is 500 € per waste stream, before the audit starts, and the registration fee for each WEEE stream which will be listed on the WEEELABEX web is 500 €.</p>	<p>This relates to only one certification body and is not reflective of all certification bodies. The costs of one such organisation should not be stated as it gives an unbalanced position. The statement is also incorrect as there is only one initial application fee charged by the WEEELABEX Organisation.</p> <p>Recommend changing text to: Certification bodies may, in addition to auditing costs, charge for the initial application and on-going certification or service costs.</p>
31	1 para	<p>This includes specific BAT conclusions for the “mechanical treatment in shredders of metal wastes”, for the “mechanical treatment of WEEE containing volatile fluorocarbons and/or volatile hydrocarbons” and for the “mechanical treatment of WEEE containing mercury”.</p>	<p>The timing of implementation of BAT conclusions is different in different member states. For example some Member States require all companies which are covered by IED, to include the BAT conclusions by a certain date, other member states include them only at renewing or changing existing environmental permit; or only on applications for new facilities. For</p>

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			<p>clarity we recommend an addition to the text. Recommend changing text to: BAT conclusions for waste treatment were adopted in 2018 (Commission Implementing Decision 2018/1147) if certain conditions are met for example the permitting of new technology or treatment facilities and operational controls.</p>
33	4 para	<p>According to the survey performed under this study additional costs that may accrue due to the implementation of selected requirements of the CENELEC Standards are highest (> 80,000 € per implemented requirements) for installing weatherproof covering at storage sites</p>	<p>See pg 29 – 4 paragraph above. This is not the case – the use of waterproof tarpaulins are a very „low“cost solution. We recommend the text should be amended to include reference to the use of low cost solutions to the high cost of the installation of permanent / fixed weather proof covers</p>
33	4 para	<p>...for securing sites to prevent access of unauthorized persons, for implementing procedures to separate BFR-plastics from BFR-free plastics, for implementing sufficient and documented removal of fluorescent coatings from CRT equipment</p>	<p><u>See</u> pg 18 Section 3.1.1, 4 para and pg 25 – 4 paragraph above It should be made clearer in the text that recycling companies would not be legally obligated to carry out all the treatment operations themselves. The Standards foresee this approach. This misunderstanding may have a major impact on existing manual operation only recyclers (stage one) and/or those with manual and mechanical operations (stage one and two) who have no stage three (further de-pollution/separation/reduction in size) operations on the same site. This will help to prevent the domination of large-scale / volume operators, and unfair market conditions developing. Recommend changing text with the addition of : The first recycler may not have the ability or specialist equipment to carry out the de-pollution activity for the</p>

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			separation of BFR plastics or removal of fluorescent coatings from CRT equipment, and the plastics and cathode ray tubes may be sent to downstream treatment partners who should be able to evidence that the de-pollution has been completed.