



**Proposal to the Department for Environment Food
and Rural Affairs**

**Operation of a WEEE Compliance Fee for the 2016
Compliance Period**

September 2016

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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 Defra guidance. It applies to the compliance year ending 31 December 2016.

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 are required 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 do 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 was reinforced by the findings of an economics study by Frontier Economics Ltd., submitted in support of the JTA's 2015 Compliance Fee Proposal. Reflecting this, the JTA has invested considerable resources in preparing this 2016 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);
- Tech UK: (previously Intellect, the trade association for the Information and Communication Technology and Consumer Electronics sectors);
- LIA: Lighting Industry Association;
- PETMA: Portable Electrical Tool Manufacturers' Association; and
- SEAMA: Small Electrical Appliance Marketing Association.

Since its formation the JTA and its members have engaged with Government in a number of WEEE related consultations including the Recast WEEE Directive, the Red Tape and Cutting Red Tape Challenges and the Circular Economy review, making proposals on future policy development as appropriate. The JTA has also submitted proposals for a Compliance Fee methodology for the 2014 and 2015 compliance years, which was the methodology chosen by the Government for both years.

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. As PCSs working in the regulated producer responsibility environment they regularly engage with Government in both formal and informal consultations on future policy development, making proposals both individually and collectively through relevant trade bodies. Such proposals include the Recast WEEE Directive, the Circular Economy Review and the operation of the PCS Balancing System (PBS).

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 organization only.

2. **Executive Summary**

Introduction: The JTA submitted proposals for the 2014 and 2015 Compliance Fee. Both of these were approved by the Secretary of State for Business Innovation and Skills (BIS) and were successfully implemented and operated, albeit the disbursement elements of both are still ongoing.

This JTA 2016 Compliance Fee Proposal is based on the JTA 2015 Proposal with some adaptations to reflect:

- Changes in guidance provided by the Department for Environment Food and Rural Affairs (Defra) for the 2016 compliance period;
- Enhancements based on experience from the 2015 Compliance Fee mechanism – including feedback from the Administrator, BIS, Defra and other stakeholders; and
- Enhancements based on the outcomes of an updated economic assessment from FTI Consulting LLP (FTI), the independent and respected economics consultancy firm which prepared the economic analysis accompanying the JTA 2014 proposal, commissioned in light of new factors which have arisen in the WEEE system which are causing it to function less effectively (see Appendix 1). The adaptations/enhancements are summarised in Appendix 5.

The key strengths of the JTA 2016 Proposal are:

- A successful track record of operating both the 2014 and 2015 Compliance Fee mechanisms;
- 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 which was reviewed in 2015 by a separate respected economic consultancy firm and updated in 2016 in light of changes in the WEEE system; and
- The infrastructure, resources and processes in place to deliver the operational requirements for the 2016 Compliance Fee mechanism.

The main elements of the Compliance Fee mechanism put forward in this JTA 2016 Proposal are summarised below 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 2016 Compliance Fee is based on the methodologies used successfully for the 2014 and 2015 Compliance Fees previously approved by the Secretary of State for BIS, with adjustments to deal with the effect of prevailing

conditions in the UK WEEE market. The methodology was developed in 2014 by FTI, a leading group of professional economists, who, in 2016, have reviewed the methodology and proposed some adjustments in response to their analysis of the current WEEE market.

- 2.1.2 The 2016 Compliance Fee calculation is based on the weighted average net cost of direct collections and treatment transactions incurred by PCSs when undertaking local authority DCF collections. This excludes fixed overheads and the costs of indirectly acquired WEEE evidence. A separate fee is calculated for each collection stream of WEEE. Costs will be calculated using data submitted on a compulsory basis by those PCSs that decide to use the fee for a collection stream and also from any other PCSs who choose to submit costs on a voluntary basis. In line with the 2014 and 2015 Compliance Fee mechanisms all data must be reviewed and accompanied by a report from a Registered Auditor.
- 2.1.3 Two alternative escalation factors (the Escalators) can be applied in the calculation, the Normal or the Surplus Escalator. The percentage increase in the fee depends upon how far away a PCS is from their collection target per stream and whether UK WEEE collections for that stream exceed the WEEE collections target set by Defra. For PCSs that marginally miss their target and where total UK WEEE collections for the relevant stream are broadly in line with the WEEE collections target the effect of the Escalator will be minimal. For a PCS making little or no effort to achieve their collection target per stream the effect of the Escalator would be to double the Compliance Fee; with the escalation factor rising further if UK WEEE collections exceed the WEEE collections target set by Defra.
- 2.1.4 As in the 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 2016 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.
- 2.1.5 The JTA methodology is intended 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. The factors that combine to achieve this objective are described in sections 2.1.5.1 through to 2.1.5.5 below.
 - 2.1.5.1 The Escalator mechanism is only applied to the average cost of local authority WEEE collections. These are typically higher in cost than some other sources of WEEE.
 - 2.1.5.2 All PCSs may submit data from their LA DCF WEEE collections, which means that the Compliance Fee can be properly reflective of the costs of collection from LAs. The WEEE Directive, at its heart, requires member states to establish a national collection infrastructure for WEEE collection. The UK uses the LA DCF network to meet this obligation, and so using LA DCF WEEE collection costs for calculation of the Compliance Fee is very appropriate.
 - 2.1.5.3 The Surplus escalator increases the Compliance Fee payable where there is an excess of household WEEE (when compared to the National target) in the UK system, for that stream.
 - 2.1.5.4 The proposed administration fee (where applicable).

- 2.1.5.5 A PCS's own administrative and audit costs of using 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 similar to the one that was used successfully in the 2014 and 2015 Compliance Fee mechanisms, with minor updates to reflect questions raised to the Administrator by PCSs during the 2015 process. All data submissions, whether or not the PCS will need to use the Fee mechanism, must be accompanied by a report from an Independent Registered Auditor and will be subject to validation for accuracy by the Administrator.
- 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 this mechanism ensures that an appropriate fee will be calculated.

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 Defra select the JTA 2016 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 both the 2014 and 2015 Compliance Periods. This experience and knowledge will ensure an effective and cost efficient process in 2016.
- 2.2.2 As the JTA is an unincorporated body, a legal entity, 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 Defra do not accept the JTA Proposal, the full Administrator 2016 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 and for those PCS who wish to submit cost data voluntarily. 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 will manage independently. The 2016 client bank account will be separate to the 2014 and 2015 client bank accounts. 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 and 2015 Compliance Fee mechanisms the Administrator has confirmed that the process was robust and that the timetable was respected.

- 2.2.5 The Administrator will keep strictly confidential all data they receive and handle, as demonstrated in their handling of both the 2014 and 2015 Compliance Fee mechanisms.

2.3 **Disbursements of Compliance Fee Funds**

- 2.3.1 Compliance fee payments by PCSs will form the 2016 Compliance Fee Fund, managed by the Administrator and held in 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 Defra July 2016 Guidance i.e. to support higher levels of collection, recycling and re-use for household WEEE and other initiatives designed to assist the UK to meet its obligations under the WEEE Directive.

There will be no set-up costs (the operating systems from the 2014 and 2015 compliance periods 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 Defra July 2016 Guidance, although we are open to any suggestions from Defra should change be needed. 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 2016 Proposal sets out a standalone disbursement process. Across the 2014 and 2015 disbursement processes the JTA has demonstrated a pragmatic and flexible approach which took into account funding levels and other initiatives: 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 were both managing funds with very similar criteria for allocation. For the 2015 Compliance Fee disbursement process, with the support of Defra, a call for relevant research proposals was made, to reflect the fact that funds available for disbursement were lower. In the event that the DTS has funds available for disbursement, with similar criteria, during the time that the 2016 Compliance Fee funds are being disbursed the JTA would again be pleased to participate in coordination discussions between the Schemes and Defra in the interests of reducing administration work for applicant organisations.

2.4 **Governance and Confidentiality**

- 2.4.1 The 2016 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. This is in keeping with the operation of the 2014 and 2015 Compliance Fee mechanisms.

- 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 the Compliance Fee mechanism is not used by any PCS (or it is used to a very limited extent) any residual costs of the administrator that are not covered by compliance fee and administration fee income will be met by JTAC.
- 2.4.4 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 Defra the best way to use the funds that are available to further improve the working of the UK WEEE system in line with the Defra July 2016 Guidance.
- 2.5 Payment is made to and validated by the Administrator. The 2016 JTA proposal uses the same Administrator as previous years. Experience of previous years did not reveal any concerns expressed by the environment agencies in respect to the operation of the Administrator and we do not anticipate additional burdens on the environment agencies resulting from this year's submission.

3. **JTA proposal for the WEEE Compliance Fee for the 2016 Compliance Period**

The JTA proposal for a compliance fee mechanism under Regulation 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 LLP (FTI), a leading group of professional economists for the JTA 2014 Compliance Fee Proposal which was reviewed and endorsed by an independent study by a separate firm of leading economic consultants, Frontier Economics Ltd in 2015. The JTA 2016 Compliance Fee Proposal will use an amended version of the same methodology and formula, incorporating some adjustments in response to FTI's analysis of the factors appropriate for the 2016 compliance period.

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 and have been asked to review and propose changes to their methodology in light of recent changes in the UK WEEE market. FTI's 2016 report, attached as Appendix 1, 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.

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 and 2015 Compliance Fee mechanisms in accordance with their contract with JTAC. They have demonstrated their professionalism and integrity in executing their tasks in respect of the 2014 and 2015 mechanisms, neither of which are yet complete as the disbursement processes continue through to the end of December 2016 and December 2017, respectively.

If their Proposal is accepted by the Secretary of State for Defra, JTAC propose to appoint Mazars as the Administrator for the 2016 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 two years ago 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 2016 Compliance Fee mechanism.
- Mazars have provided a quotation for costs to cover the 2016 compliance period, which reflects their insight and experience gained from the 2014 and 2015 processes. As a result, overall costs are projected to be similar to those for the 2015 compliance period. 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.
- JTA considers that a three-year cycle of review is appropriate to a professional appointment such as this, and accordingly, if JTA submits a Compliance Fee proposal for the 2017 Compliance Period, then the appointment of Administrator will be subject to a competitive tendering process prior to submission.

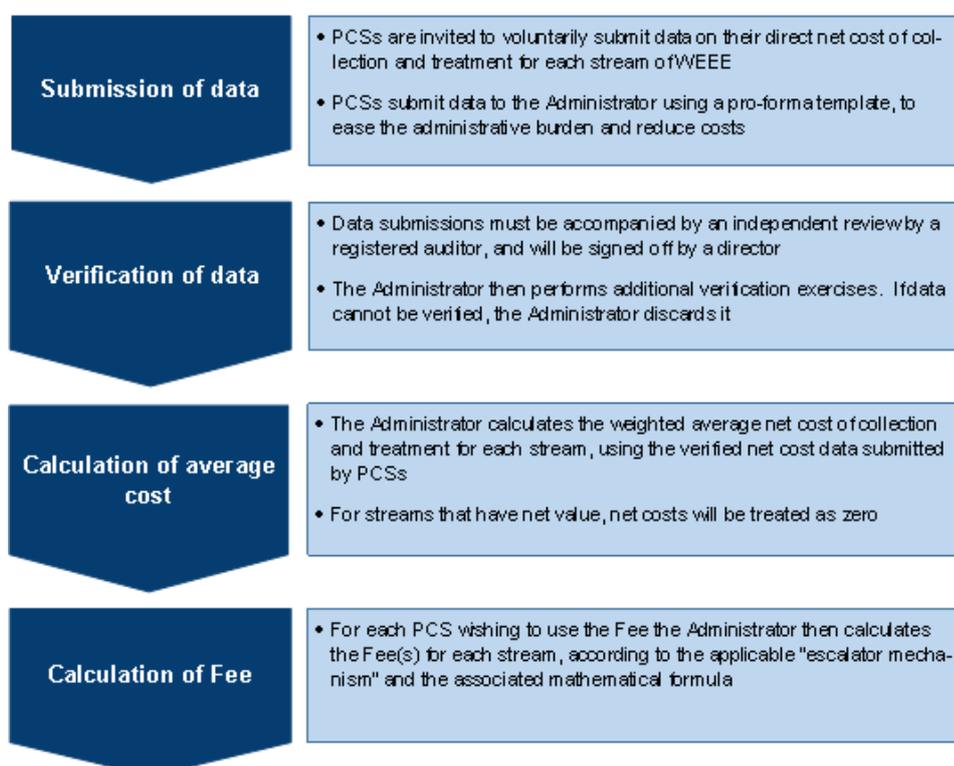
A fuller report on the profile, experience and qualifications of Mazars LLP in respect of the Administrator role is in Section 4 of this Proposal.

3.3 Calculation and payment of Compliance Fees

3.3.1 Summary flow diagram and timeline

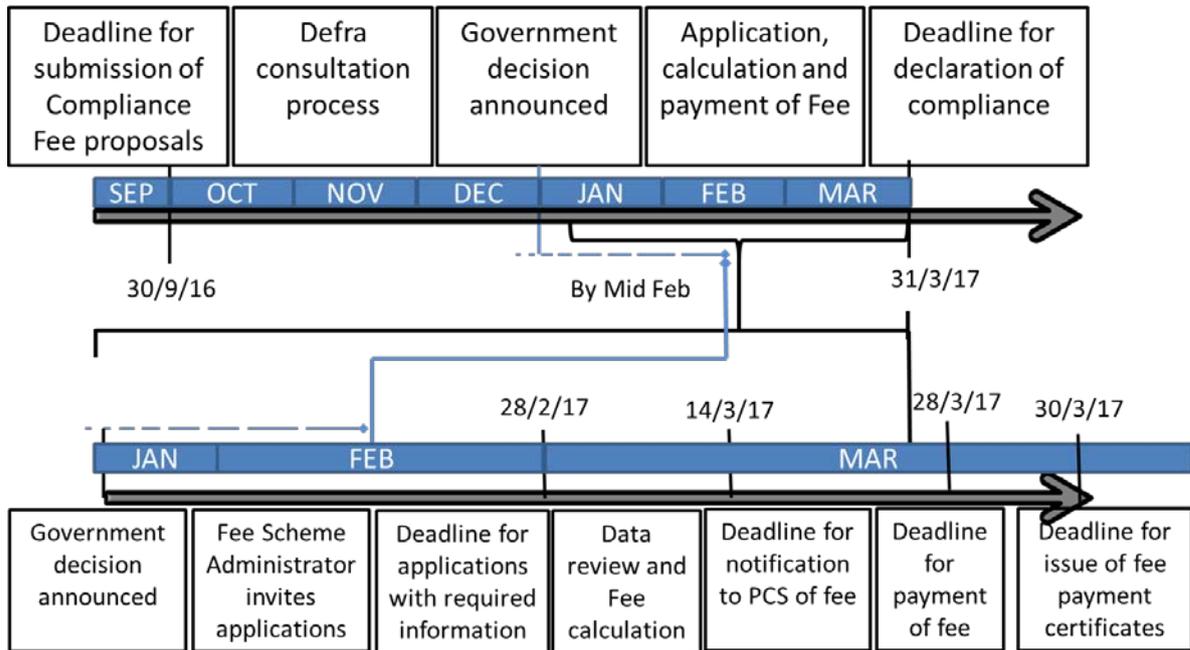
The most time-critical element of the Compliance Fee process remains setting up and completing the PCS Compliance Fee calculation and payment stages, due to the limited time available between the date of the expected announcement by Defra regarding a compliance fee and the 31st March 2016 when all PCSs are required to complete their declarations of compliance to the Environment Agencies. In this context Mazars, as the Administrator of the 2014 and 2015 Compliance Fee mechanisms, 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.

The flow diagram for the 2016 mechanism is the same as that used for the 2014 and 2015 mechanisms; 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 Defra introducing a Compliance Fee mechanism for 2016, 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 or voluntarily submit cost data 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 2015 process will be used; requiring 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 or submit cost data voluntarily must be advised to the Administrator promptly, and at the latest by 28th February 2017, to allow time for calculations and payment of any resulting fees. PCSs will know by the end of January 2017 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 or does not wish to voluntarily submit cost data (the Administrator has no knowledge of PCSs' individual targets or levels of collection achieved at this point).

3.3.2.3 All PCSs that choose to use the Compliance Fee for a stream or voluntarily submit cost data are required to submit data for that stream to the Administrator by 28th February 2017, using the pro-forma template supplied to applicant PCSs by the Administrator, 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

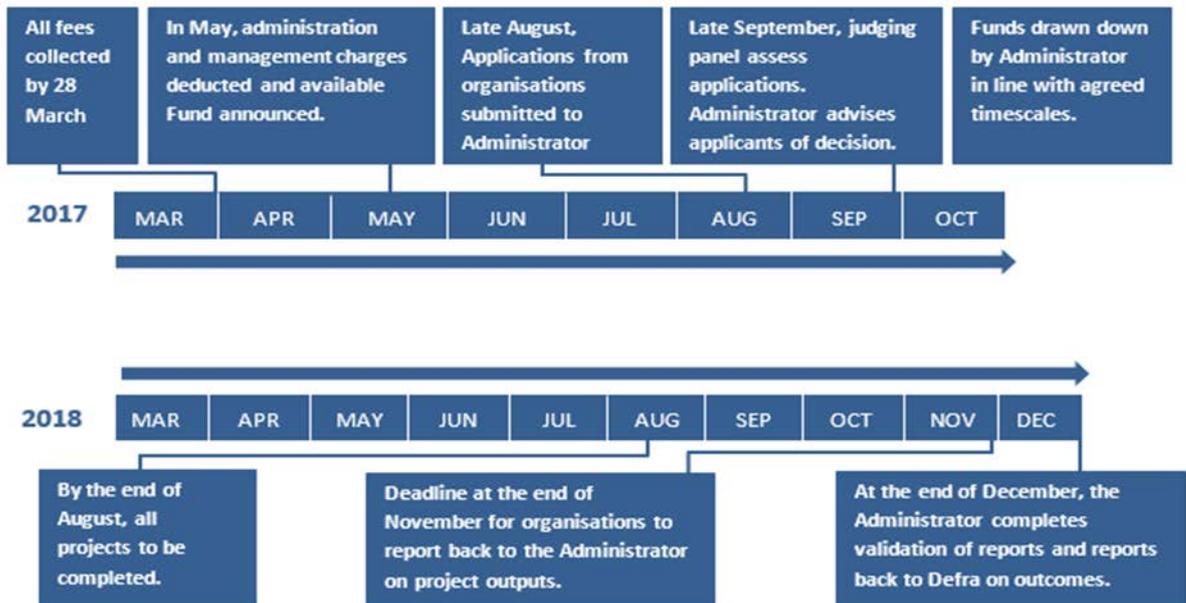
PCS and the amount of tonnes and streams involved. There are approximately 7000 firms registered as auditors, which provides a wide range of choice for PCSs, in addition to the option of using their own external auditor provided they are a registered auditor.

- 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 calculates the weighted average cost per tonne per stream of direct WEEE collections from local authority DCFs using cost data from both PCSs that wish to use the Compliance Fee and from those PCSs who have submitted cost data voluntarily. In the unlikely event that there is no LA DCF cost data submitted to the Administrator for any one stream of WEEE, then the Administrator shall seek and assess alternative sources of cost data that it reasonably considers can be used for the calculation of the Compliance Fee for that stream.
- 3.3.2.6 The Administrator will contact the Defra WEEE team on or before 1st March 2017, to request confirmation of the tonnage of household WEEE (by stream), that has been reported for the 2016 compliance period. We propose that Defra use the evidence held on the settlement centre, unless Defra is of the opinion that another dataset is more accurate. The administrator will then use this data to determine whether each collection stream is deemed to be in surplus or not so that the appropriate escalator can be used in the calculation of the fee. A collection stream will be in surplus if the chosen data set exceeds the 2016 national WEEE collections target set for that stream by Defra, by 1.5% or more. 1.5% was chosen because, in the opinion of the JTA, it allows for the aggregate effect of PCSs that may inadvertently over-collect, but choose not to transfer excess evidence (particularly in streams that are low cost or positive value).
- 3.3.2.7 The Administrator then applies the appropriate escalator mechanism for each stream and each PCS that needs to use the Fee (see section 6 of the FTI report in Appendix 1). The Normal Escalator applies to streams where UK WEEE collections do not exceed the UK WEEE Collections Target, and the Surplus Escalator applies to streams where total UK WEEE collections exceed the UK WEEE Collection Target by at least 1.5%. The calculations are based on the formula developed and recommended by FTI Consulting, section 6 in Appendix 1.
- 3.3.2.8 At the same time, administration fees will be calculated for each PCS 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. The JTA considers 10% to be a reasonable cut off to identify those PCSs that have very largely met their target (90% or more achieved through collections), and so should not have any further costs beyond those associated with paying the compliance fee itself. For PCSs that do not collect 90% of their target, a further cost represents an additional incentive to achieve compliance through collections, rather than relying on paying the compliance fee.
- 3.3.2.9 By 14th March 2017 each PCS that has chosen to use the Compliance Fee will be advised of their Compliance Fee and any administration fee.
- 3.3.2.10 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 2017. 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 2017. 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 that 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.

- 3.3.2.11 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 in tonnes and the tonnes for which a compliance fee has been paid.
- 3.3.2.12 In May 2017 the Administrator will confirm to Defra and JTAC, the estimated amount of Compliance Fee funds available for disbursement to support WEEE projects as set out in the Defra 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 will be made of all the administrative costs expected to be incurred through to the close of the 2016 mechanism at the end of December 2018. When the 2016 compliance fee mechanism is completed the Administrator will confirm to Defra and JTAC any residual funds available for disbursement.
- 3.3.2.13 Please note that the JTA considers that this proposal represents an effective turnkey solution to the implementation of the 2016 Compliance Fee. However, the JTA is open to discussing any aspects of this proposal with Defra, and where appropriate, amending aspects of the proposal.

3.4 Disbursements of Funds



For the disbursement process the JTA Proposal sets out a full timetable for applicant organisations to submit applications for funding, showing 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 Defra. An example of this occurred in the 2014 compliance period where the timing of the disbursement process was delayed to fit into a combined call for funding from the Compliance Fee funds and DTS 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 2 "Process for Disbursements from the Compliance Fee Fund".

- 3.4.1.1 The value of funds available for disbursement from compliance fee payments to support WEEE projects that meet the criteria set out in the Defra 2016 Guidance will be advised to all relevant organisations by Defra.
- 3.4.1.2 Organisations will then be able to make applications for such funds, using a standard template (see Appendix 4) to support projects that meet the criteria set out in the Defra July 2016 Guidance document; i.e. seeking to support higher levels of collection, 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. JTAC has however established a website which provides potential applicants with information about making applications for the fund and enables them to download copies of the relevant application forms. This can be viewed at <http://www.weeefund.uk>. The closing date for applications is 31st August 2017 subject to any changes in the timetable agreed with Defra.
- 3.4.1.3 A Judging Panel representative of the relevant stakeholders will assess all applications against the criteria set out in the Defra 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 October 2017.
- 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 Defra 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 Defra how those funds are to be used. Some options are outlined in the detailed process in Appendix 2.
- 3.4.1.8 This JTA 2016 Proposal sets out a standalone disbursement process. For the 2014 Compliance Fee disbursement process, with the support of Defra, 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. For the 2015 Compliance Fee disbursement process there was no concurrent DTS fund and so the Compliance Fee Fund operated on a standalone basis. In the event that the DTS (or any similar successor scheme) has funds available for disbursement, with similar criteria, during the time that the 2016

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 listed below:

- 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 Defra).

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

3.6 How JTA 2016 Proposal matches against the assessment criteria set out in the Defra 2016 Guidance for submitting 2016 Compliance Fee Proposals.

See Appendix 3 for a detailed cross reference of this proposal against the Defra criteria.

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; and
- 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 the Compliance Fee Administrator to support the JTA Proposal. JTAC reviewed this process in 2015, and again in 2016, 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 of the 2016 Compliance Fee Mechanism, if the JTA Proposal is selected by the Secretary of State for Defra.

4.4 **Mazars' background**

Mazars is an international, integrated and independent organization, specializing in audit, advisory, accounting and tax services. The Group operates in 73 countries and draws on the expertise of 17,000 professionals to assist major international groups, SMEs, private investors and public bodies at every stage in their development. In the UK, Mazars has 141 partners and over 1,750 staff serving clients from 19 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 and 2015 Compliance Fee client accounts. (N.B: as part of the strict confidentiality conditions regarding payment of Compliance Fees by PCSs, neither JTA nor JTAC nor any of their members has any access to the client bank account nor to any 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 organization 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.

4.5.4 **IT systems & security**

Currently a straightforward off-line IT led solution has been implemented for administering the compliance fee because this has been most appropriate and has worked well in the 2014 and 2015 compliance years. PCSs email requests to use the compliance fee and cost data using standard templates provided by the Administrator, similarly organisations wishing to apply for funding from the Compliance Fee fund email requests using standard application forms provided by the Administrator. The use of a portal solution to receive requests from PCS and funding applications has been reviewed but not considered to be best value for money at present, this can be revisited as circumstances dictate.

Mazars uses its own internal IT systems to perform the compliance fee calculations, record information on receipts and disbursements into and out of the dedicated client bank account, track applications for funding, raise invoices to PCSs and issue CFPCs.

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 141 partners and over 1,750 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 2016 Compliance Fee mechanism. A senior 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 PCSs about the 2016 Compliance Fee mechanism, providing support to PCSs 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 2016 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 2016 compliance period, which reflects their insight and experience gained from the 2014 and 2015 processes. As a result, overall costs are projected to be similar to those for the 2015 compliance period. The Mazars offer is commercially confidential and therefore is not included in this JTA Proposal.

5. **Administration and management costs for the 2016 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 or voluntarily submit cost data 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; and
- The time it takes to complete the whole process from the time that Defra announce whether there will be a 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.

PCSs 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 projects. In the event that the administration fees charged to PCSs are greater than the total administration costs of the 2016 Compliance Fee mechanism the surplus will be added to the funds made available for WEEE projects.

It is expected therefore that the net costs of administering and managing the 2016 Compliance Fee, which are charged against the 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 2016 Compliance Fee mechanism, then any costs of administering and managing the scheme not covered by 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 and 2015 Compliance Fee mechanisms, are given below:

- 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 and 2015 Compliance Fee mechanisms.
- 6.5 JTAC will manage the performance of the Administrator of the system, without any access to confidential or commercially sensitive information provided by either PCSs, 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 Defra can also be provided, if required by Defra.
- 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 JTA members.

- 6.7 The Compliance Fee process is open to any organisation entitled to and wishing to use it i.e. all PCSs wishing to make use of the Compliance Fee mechanism or submit cost data; and all organisations that meet the criteria, wishing to apply for grants from any Compliance Fee funds that are available.
- 6.8 PCSs 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 or submit cost data voluntarily will be required to submit accurate information signed off by a Director and backed up with an independent review.
- 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 PCSs 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**

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**Proposal to the Department of Environment,
Food and Rural Affairs**

**Operation of a WEEE Compliance Fee for the
2016 Compliance Period**

Appendix 1

September 2016



28 September 2016

Proposed changes to WEEE compliance fee methodology

Evaluation of options for change and
recommendations for the design of the
compliance fee for 2016 in accordance with
the Waste Electrical and Electronic
Equipment Regulations 2013

CRITICAL THINKING AT THE CRITICAL TIME™

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Glossary

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Glossary

Administrator	Organisation responsible for the management of the WEEE compliance fee mechanism, including gathering required data and calculating the Fee payable in each stream for each PCS using the fee.
Avoidable cost	Costs 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
Direct cost	Costs that change in proportion to the amount of WEEE directly collected by the PCS
Direct collections	Collections that are under the direct control of a 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.
DEFRA	Department for the Environment, Food and Rural Affairs
EEE	Electrical and Electronic Equipment
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)
LA-DCF	Local Authority Designated Collection Facility
LHA	Large household appliance

Net cost	All direct costs less revenues associated with collection and treatment of WEEE, where direct costs are greater than revenues
Normal Escalator	The mechanism by which the uplift to the fee per tonne increases in proportion to a PCSs' collection volume shortfall, for WEEE streams where there is no supply surplus.
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 directly in proportion to the amount of WEEE collected by the PCS
PCS	Producer Compliance Scheme
Settlement Centre	An online tool managed by the Environment Agency through which PCSs accept evidence notes
Surplus Escalator	The mechanism by which the uplift to the fee per tonne increases in proportion to a PCSs' collection volume shortfall, for WEEE streams where there is an aggregate surplus in the supply of WEEE compared to PCSs' volume targets.
Under-collector	An individual PCS that collects less WEEE than its obligation amount, independent of total WEEE collections in the UK
WEEE	Waste Electrical and Electronic Equipment
WEEE Regulations	Waste Electrical and Electronic Equipment Regulations 2013

1. Introduction

Introduction

- 1.1 This report has been prepared by FTI Consulting for the Joint Trade Associations Group (“**JTA**”). We have been asked to identify and assess possible changes to the methodology for calculating the compliance fee (the “**Fee**”) in accordance with Regulation 76 of the Waste Electrical and Electronic Equipment Regulations 2013 (as amended) (“**WEEE Regulations**”) and the Guidance on submitting proposals for a WEEE Compliance Fee Methodology, July 2016, for the compliance year ending 31 December 2016. 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 the Environment, Food and Rural Affairs (“**DEFRA**”). DEFRA took over responsibility for the administration of the WEEE Regulations from the Department for Business, Innovation and Skills (“**BIS**”) with effect from 1 April 2016.¹

Background

- 1.3 We briefly summarise below the background to the WEEE Regulations and the Fee relevant to our instructions.

The 2013 WEEE Regulations

- 1.4 In December 2013, following a period of consultation by BIS, the UK Government passed the 2013 WEEE Regulations. The 2013 WEEE Regulations were developed, in part, in response to EU Directive 2012/19/EU on WEEE, which recast Directive 2002/96/EU. They came into effect in January 2014.

¹ Source: <https://www.gov.uk/government/news/environmental-regulation-team-moves-from-bis-to-defra>

- 1.5 Under these regulations, producers of Electrical and Electronic 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.²
- 1.6 Regulation 28 of the WEEE Regulations sets out the responsibilities of PCSs for financing the handling of household WEEE. Under the WEEE Regulations, there are fourteen EEE categories. Collection targets for household WEEE are now aggregated into 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 DEFRA.

The WEEE compliance fee

- 1.7 Under the preceding regulations, the purchase of WEEE evidence notes by under-collecting PCSs through the secondary market was the only means of achieving compliance. This resulted in market failure because under-collecting PCSs were subject to excessive charging for evidence notes by over-collecting PCSs, because demand for evidence notes was price inelastic, due to the high penalties for non-compliance.
- 1.8 Regulation 33 of the WEEE Regulations provides that 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 was designed to address the market failure that arose under the preceding regulations.
- 1.9 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.

² Throughout this report, for convenience, we refer to “collection” of WEEE, which should be taken to mean the collection and treatment of WEEE.

- 1.10 FTI Consulting prepared an independent report on behalf of the JTA in 2014, which recommended a methodology for calculating the Fee. FTI Consulting's proposed approach was adopted by BIS for the compliance year ending December 2014. The same methodology was also adopted with a few minor enhancements to better reflect conditions in the market at the time for the following compliance year ending December 2015.³
- 1.11 The key features of the Fee methodology originally designed by FTI Consulting and adopted for the past two years are that:
- (1) a separate Fee is calculated for each WEEE stream;
 - (2) the Fee per tonne is based on the average direct costs of collection of PCSs which use the fee scheme; and
 - (2) an escalator is applied which adjusts upwards the Fee per tonne according to the magnitude of the PCS's collection shortfall versus its target. The uplift is proportionately larger, the larger is the shortfall.
- 1.12 We consider that this methodology remains economically sound and therefore believe that material changes should not be made unless absolutely necessary. We do however understand that the WEEE market environment has changed and that these changes will need to be reflected in the methodology.

Our instructions

- 1.13 FTI Consulting has now been instructed by the JTA to identify and appraise options for changing the Fee calculation methodology for the compliance year ending December 2016, to address new issues which have arisen in the WEEE market which may be causing it to function less effectively. We set out important restrictions and limitations on our work in Appendix 6.

Sources of information

- 1.14 In preparing this report, we have reviewed EU and UK government documentation relating to the WEEE Regulations, including guidance published by BIS at the time the WEEE Regulations were introduced. We list the information we have relied on in Appendix 2.

³ Frontier Economics, UK WEEE regulations - Economic assessment of the 2014 compliance fee system and potential future changes, September 2015.

Structure of this report

1.15 The remainder of this report is structured as follows:

- in Section 2, we summarise our conclusions;
- in Section 3, we set out our understanding of recent developments and other factors in the WEEE market which we consider in identifying and appraising possible changes to the Fee;
- in Section 4, we define criteria against which we assess possible changes;
- in Section 5, we identify possible changes, and evaluate the merits of each against the issues identified in Section 3 and the criteria defined in Section 4; and
- in Section 6, we set out the changes to the Fee calculation methodology which we recommend are adopted.

2. Summary of conclusions

- 2.1 We understand that certain issues have arisen in the WEEE market since the Fee methodology was last reviewed and which stakeholders consider may be causing it to function less effectively. In summary, the main issues are:
- (1) supply above national targets in some WEEE streams;
 - (2) changes in the sources of WEEE and/or evidence notes;
 - (3) changes in the value of some WEEE streams;
 - (4) variation in collection costs and possible “cherry-picking” by PCSs;
 - (5) changes in WEEE volumes arriving at Local Authority Designated Collection Facilities (“**LA-DCFs**”); and
 - (6) increasing need for Local Authorities to exercise their right of free uplift under Regulation 34.
- 2.2 Based on these issues, we have identified a number of options for changes to the Fee methodology. We identified six possible changes which fall into the following categories:
- (1) changes to the costs used to calculate the Fee;
 - (2) changes to the Fee escalator; and
 - (3) other changes.
- 2.3 We assessed these options against the following criteria: effectiveness; cost reflectivity; transparency; reasonableness; feasibility; robustness; and promotion of competition.
- 2.4 Based on our assessment, we recommend that the following two changes to the Fee methodology are adopted:
- (1) the Fee is based on the weighted average costs of collections from LA-DCFs, rather than weighted average costs of all PCSs’ collections; and
 - (2) two different fee escalators are adopted. One operates in the same way as the current escalator and the other applies to WEEE streams where, across the market, there is a net surplus of household WEEE, compared to the national target for that stream. The escalator for streams with such a net surplus imposes a higher fee for a given shortfall than the current escalator.

- 2.5 In our view, these changes to the previous methodology will appropriately address the issues and behaviours that some stakeholders have identified concerning the current functioning of the WEEE collection market.
- 2.6 In particular, this revised methodology will increase the incentive for PCSs to meet their targets through collection (particularly from LA-DCFs), helping to reduce the negative externalities associated with untreated WEEE, without introducing significant market distortions.

3. Recent developments and other factors in the WEEE market

Introduction

- 3.1 We understand that the Fee methodology adopted for the compliance year ending December 2014 and 2015 successfully addressed the main issues that existed in the market for WEEE prior to the introduction of the 2013 WEEE Regulations. This is indicated by the fact that the compliance fee made available for disbursement in 2014 was £375,000⁴ and then fell to £27,000 in 2015.⁵ However, during the latter part of 2015 and 2016 we understand that there have been a number of developments in the WEEE collection market that may necessitate changes to be made to the Fee methodology.
- 3.2 In this section, we set out and explain our understanding of these recent developments and other factors in the WEEE market that should be considered when identifying and appraising options for the Fee. Proper consideration of these developments and factors will ensure that the revised Fee methodology meets the objectives for the Fee enshrined in the WEEE Regulations and the specific criteria defined by DEFRA, while avoiding adverse economic and environmental consequences. We note that DEFRA's criteria require inter alia an assessment of the impact of the fee design on "*the stability of the household WEEE collection system*".⁶ We discuss the relevant assessment criteria in more detail in Section 4.
- 3.3 We first set out the steps we have taken to understand the current market for WEEE, before listing and considering each of the relevant factors and developments in turn.

⁴ Source: <http://www.letsrecycle.com/news/latest-news/bis-announces-775k-weee-fund-for-councils/>

⁵ Source: Email from Graeme Vickery (DEFRA) dated 12 August 2016, to members of the JTA.

⁶ DEFRA, Guidance on submitting proposals for a WEEE Compliance Fee Methodology, July 2016.

Approach

- 3.4 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 Government guidance notes;⁷
 - (3) held discussions with members of 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 changes to the Fee calculation;
 - (c) information and data available to PCSs;
 - (4) reviewed our own analysis and final report which recommended the design that was adopted for the Fee for the 2014 compliance year;
 - (5) reviewed the consultancy report which endorsed the re-adoption of the methodology for the 2015 compliance year with a few minor enhancements to better reflect conditions in the market at the time;
 - (6) reviewed feedback received from BIS on the 2014 and 2015 submissions for the Fee mechanism; and
 - (7) had regard to our own experience in performing other similar reviews, working with regulators on developing economic models to set prices, achieve stated Government policy goals, and considering companies' objectives and incentives in regulated industries.

⁷ Specifically, BIS, WEEE Regulations, Government Guidance Notes, March 2014; and DEFRA, Guidance on submitting proposals for a WEEE Compliance Fee Methodology, July 2016.

Factors and issues identified

3.5 We have identified the following factors and recent developments in the WEEE market, which we consider must be taken into account in identifying and appraising options for the Fee:

- (1) the environmental importance of properly treating WEEE and encouraging compliance by collection;
- (2) the need to avoid previous market failures;
- (3) the recent excess supply in some WEEE streams;
- (4) changes in the sources of WEEE and/or evidence notes;
- (5) changes in commodity prices affecting demand for some WEEE streams;
- (6) variations in collection costs and possible “cherry-picking” by PCSs;
- (7) changes in WEEE volumes arriving at LA-DCFs; and
- (8) DEFRA’s implicit objective to incentivise LA-DCF collections and the increasing exercise of their right of free uplift.

3.6 Many of these issues are interrelated. We discuss each in turn below.

(1) Environmental considerations

3.7 Discarded WEEE can cause soil, air and water pollution and have an adverse effect on human and animal health. Treating WEEE, preparing WEEE for re-use, recycling WEEE and recovering energy from waste materials can reduce these negative externalities and minimise environmental impacts. The objective of the WEEE Regulations is to ensure the proper treatment of WEEE, so we consider that any revised Fee design should continue to support this overriding objective by appropriately incentivising PCSs to achieve compliance through collection, not through payment of the Fee.

(2) Avoiding the previous market failure

3.8 As described in Section 1, prior to the introduction of the Fee there existed market failure whereby some PCSs over-collected WEEE and were incentivised and able to sell evidence notes to “under-collectors” at high prices. In considering changes to the Fee methodology, it will be important to ensure that this outcome is not reintroduced.

(3) The balance of the demand for and supply of WEEE and collection shortfalls

- 3.9 PCSs' collection targets are set based on the amount of EEE in each category that was put on the market by the scheme's members, as well as other factors. It is therefore possible that, for a given WEEE stream, the aggregate supply of WEEE may exceed or fall short of the aggregate collection target across all PCSs. The Q2 2016 WEEE collection volume data shows that four of the six streams are at risk of exceeding the pro-rata national collection targets for 2016.⁸
- 3.10 Therefore, whether and to what extent PCSs fail to meet their volume targets from collections reflects the balance of demand for, and supply of, WEEE in that stream. We consider that:
- (1) where a WEEE stream has an aggregate supply surplus, most PCSs should be able to meet their targets. PCSs which have met their targets will have little or no incentive to collect further WEEE, while PCSs which have a shortfall may have little or no incentive to make collection arrangements because they expect the price of evidence notes to fall; and
 - (2) where a WEEE stream does not have a supply surplus, there should be a strong incentive to collect all WEEE in supply, and there may be good reasons why some PCSs fall short of their volume targets by small amounts.
- 3.11 Therefore, it may be appropriate for the Fee per tonne to differ depending on both the overall supply conditions for that WEEE stream, as well as the size of the individual PCSs' shortfall.

⁸ These collection data are presented at the following link:
<http://www.letsrecycle.com/news/latest-news/agency-to-act-over-20000-tonne-weee-data-discrepancy/>

(4) Changes in the sources of WEEE and/or evidence notes

- 3.12 We understand that there is an increasing supply of “dual-use” WEEE from businesses, following the introduction of new guidance which came into effect in 2015.⁹ This WEEE falls within the scope of the household WEEE categories as set out in the WEEE Regulations and consequently qualifies towards PCSs’ collection targets for domestic WEEE, despite being collected from businesses.¹⁰
- 3.13 Collectors of this WEEE are (potentially) doubly-remunerated, because they often charge businesses to collect it, but then may also sell the evidence to PCSs. This may lead to the price of this evidence being “artificially” cheap, because it need not cover the cost of collection and treatment. The impact of this evidence on the WEEE market depends on the volume of dual-use WEEE as a proportion of total supply; the distribution of its use among PCSs; and the intensity of competition in the market to collect dual-use WEEE from businesses. As a consequence, there is an incentive for non-obligated WEEE to transition into obligated household WEEE, at a lower cost to the PCS.
- 3.14 We understand that similar considerations also apply in respect of evidence from preparation of WEEE for reuse.

(5) Changes in commodity prices affecting demand for some WEEE streams

- 3.15 There are different net costs (or net revenues) associated with collecting and treating different types of WEEE. Some types of WEEE may be collected and recycled or prepared for re-use at a profit (depending on market conditions), 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 depends upon both revenue that can be realised and the costs of treatment. The net costs of a given stream therefore depend upon costs and, to differing degrees, global commodity prices.

⁹ On 23 February 2015, BIS issued Guidance entitled “Business to consumer (B2C) and business to business (B2B) EEE and WEEE: how to correctly identify”. Available at: <https://www.gov.uk/guidance/business-to-consumer-b2c-and-business-to-business-b2b-eee-and-weee-how-to-correctly-identify>

¹⁰ The Environment Agency publication “Scope of equipment covered by the UK Waste Electrical and Electronic Equipment (WEEE) Regulations” states that “*All products which fall into the categories, regardless of whether they are used in a household or in a non-household environment are covered by the Regulations.*” Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/393740/LIT_7876.pdf

- 3.16 There has been a fall in global commodity prices since the 2014 Fee was designed. We understand that this has reduced the profit that can be earned from processing certain WEEE streams, such as Large and Small Domestic Appliances.
- 3.17 Previously, collecting these WEEE types often generated net income, which gave rise to a strong incentive to collect. The fall in commodity prices means that this may no longer always be the case. As a result, the economic incentives for PCSs and other organisations to collect these WEEE streams have fallen significantly.

(6) Variation in collection costs and possible “cherry-picking” by PCSs

- 3.18 We understand that there can be a wide variation in the collection and treatment costs per tonne of a given WEEE stream from different collection sites. It depends upon *inter alia* the site location, size and geography and available treatment plant options. For example, urban areas typically have lower costs, while rural areas are typically higher cost. We understand that these variations are larger for some streams of WEEE than others.
- 3.19 There is also variation in the costs of collecting WEEE from different types of sources. We understand that collection from LA-DCFs generally costs more than WEEE collected from other sources. The proportion of WEEE collected from different sources may also vary significantly between WEEE categories.
- 3.20 Stakeholders we have spoken to believe that some PCSs may be “cherry-picking” low-cost sources of WEEE to meet a proportion of their target and choosing to pay the Fee to cover any shortfall, rather than collect from high cost sources. To give an example, it could be that a PCS’s shortfall results in a Fee (under the 2015 methodology) which is 5% more expensive per tonne than its average cost of collection, but the available sources of WEEE for the PCS to make up its shortfall may have a cost of collection which is 10% higher than average. In these circumstances it would be economically advantageous for a PCS to pay the Fee, rather than collect additional WEEE.
- 3.21 This behaviour appears to reflect an expectation that the Fee will remain fairly constant in the future. Such expectations reduce the incentive for PCSs to meet their volume targets through collections and potentially increase the likelihood of Regulation 34 requests, which is undesirable.

(7) Changes in WEEE volumes arriving at LA-DCFs

- 3.22 The reduced economic incentive for other organisations to collect WEEE outside of the formal WEEE system due to the commodity price changes noted under issue (5) above has led to an increase in the volumes of these WEEE streams arriving at LA-DCFs. We understand this is particularly the case for, for example, Large and Small Domestic Appliances and Cooling Appliances.

(8) The implicit objective to incentivise LA-DCF collections and increasing exercise of right of free uplift

- 3.23 Under Regulation 34 of the 2013 Regulations, Local Authorities have an automatic right of uplift for their DCFs. If such an authority requests the collection of WEEE by a PCS, that PCS is obliged to organise collection regardless of the location of the LA-DCF. PCSs may not refuse these collections, irrespective of the cost to them, or whether they have met (or will meet) their volume target without this additional WEEE.
- 3.24 We understand that, historically, Regulation 34 collections have represented a very small proportion of total collections. However, that proportion has recently grown as a result of the excess supply in some WEEE streams, the reduced economic incentive to collect certain WEEE streams, and the cherry-picking behaviour by some PCSs. These factors have made it more difficult for Local Authorities to arrange collection by PCSs, and they have increasingly instead exercised their rights under Regulation 34.
- 3.25 Regulation 34 requests may lead to some PCSs incurring higher costs than others simply because they have been obliged to arrange for more (costly) rural collections. Further, PCSs may be required to collect additional WEEE in excess of their targets and incur the associated costs, although they may not be able to realise any associated revenue from selling the evidence to a PCS with a shortfall.
- 3.26 In response to this, we understand that PCSs have collaborated through the WEEE Schemes Forum to create a PCS Balancing System that will allow them to “pool” Regulation 34 requests and share the cost of fulfilling them.
- 3.27 It may be that, in future, data collected through this balancing scheme could form part of the basis for setting the level of the fee .

4. Criteria for assessing possible changes to the Fee

Introduction

- 4.1 In this section, we set out and explain the criteria that we have identified to assess possible changes to the Fee calculation.
- 4.2 We first summarise guidance on the submission of Fee proposals published by DEFRA. This guidance includes certain required features of methodologies, and so is relevant for our consideration.
- 4.3 Then, taking into account this guidance and our assessment of the key market factors in Section 3, we identify the criteria against which we consider the calculation methodology should be assessed:
- (1) effectiveness;
 - (2) cost reflectivity;
 - (3) transparency;
 - (4) reasonableness;
 - (5) feasibility;
 - (6) robustness; and
 - (7) promotion of competition.
- 4.4 These criteria are substantially consistent with those which we used to reach our recommendation for the design for the 2014 Fee.

DEFRA guidance

- 4.5 The DEFRA guidance on proposals for Fee design was published in July 2016. In making our assessment we have had regard to this guidance, in particular to the following excerpts:¹¹

“Proposals should:

- 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;

- 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 WEEE collection streams... Proposals may consider circumstances where a negligible or zero fee might be appropriate;

- provide robust economic analysis in support of the proposed methodology and its likely impacts on the stability of the household WEEE collection system.

...

- 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;

...

consider the impact of and comply with other relevant law, for example Competition Law;”

- 4.6 We incorporate these requirements into our criteria, below, and into our identification of options for the Fee in Section 5.

¹¹ DEFRA (July 2016), Guidance on submitting proposals for a WEEE Compliance Fee Methodology.

Effectiveness

- 4.7 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 always incentivised to collect WEEE directly where it has been made available to them. This outcome is an explicit objective in the WEEE Regulations,¹² and a principle in the guidance published by BIS.¹³ We also consider that Regulation 34 reflects an implicit objective to incentivise collections from LA-DCFs in particular.
- 4.8 Equally, as the BIS guidance states, the Fee should discourage individual PCSs from intentionally collecting WEEE in excess of their targets (independent of the overall level of UK collections).¹⁴
- 4.9 We will consider whether possible changes to the Fee calculation methodology appropriately balance the incentives to over-collect or under-collect WEEE and the subsidiary objective to ensure that WEEE from LA-DCFs is collected.

Cost reflectivity

- 4.10 While the Fee should meet the effectiveness objective of incentivising PCSs to collect WEEE, rather than pay the Fee, it should still be proportionate to the additional costs that a PCS would have incurred if it had met its collection target. A Fee that is inconsistent with this principle could introduce market distortions, such as the incentive which previously existed to over-collect WEEE and price excessively on secondary markets.
- 4.11 To assess the cost reflectivity of a given Fee calculation methodology, relevant market factors will be considered, such as:
- (1) variations in costs by geography;
 - (2) variations in costs by source and/or collection type;
 - (3) variations in costs (and benefits) by WEEE type;

¹² WEEE Regulations, Regulation 76, paragraph (4).

¹³ 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.

¹⁴ Guidance for submissions of proposals to BIS for a compliance fee under the WEEE Regulations 2013, BIS, "Rationale".

- (4) PCS structure and accounting; and
- (5) the relative scale of some PCSs in certain categories.

4.12 In the current 2013 WEEE Regulations, mandatory handover of WEEE to obligated PCSs is not required. This means that PCSs and other collectors can continue to over-collect positive value WEEE to generate profit (depending on market conditions), 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.

Transparency

4.13 A transparent and easily understandable calculation methodology will enable PCSs to understand how their Fee has been calculated and also, potentially, to form an expectation of what Fee they may have to pay if they under-collect in future.

4.14 On the other hand, if PCSs form strong expectations that the Fee will be at a particular level, then this may mean that they are more inclined to consider the Fee as an attractive alternative to meeting their collection targets, especially if the cost of marginal collections is thought to be high. Such behaviour would threaten the effectiveness objective. Therefore, creating a degree of uncertainty in PCSs' expectations of the level of the Fee can be considered beneficial.

4.15 In addition, in seeking transparency, consideration should also be given to how commercial confidentiality can be maintained. For example, the level of Fee levied should not provide a PCS which pays it with inappropriate insight into other PCSs' costs.

Reasonableness

4.16 The administrative and other costs of using the Fee scheme and calculating the Fee should not be excessive. For example, the administrative obligations for PCSs to gather and submit data should not be disproportionately burdensome or costly relative to the Fee that is paid. A straightforward methodology is likely to fulfil this objective.

Feasibility

- 4.17 The financial and other data needed to calculate the Fee must exist and be capable of being obtained and provided to the Administrator, while also fulfilling the reasonableness and transparency objectives.
- 4.18 It should also be feasible to complete the calculation and administration of the Fee within a reasonable period of time, and within any deadlines required under the WEEE Regulations. We understand that DEFRA 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 March. It should therefore be possible to complete the calculation of the Fee and any other associated administration within a period of approximately one month.

Robustness

- 4.19 The design of the Fee calculation should be robust to any attempt by market participants to manipulate it. It should not be possible for a PCS to take any market-based or other actions, through which it could economically disadvantage other PCSs.
- 4.20 Assessing how robust each Fee mechanism is will require a thorough consideration of the incentives of all market participants, as well as the extent to which stakeholders can individually control or influence the inputs into the Fee calculation.

Promotion of competition

- 4.21 The Fee should promote competition in the market for WEEE collection. It should also be compatible with applicable competition law. In assessing the methodologies, we consider whether any competition issues may arise from an economic perspective; however we do not express any opinion on its compliance with competition or any other laws.

5. Our assessment of possible changes to the Fee

Introduction

- 5.1 In this section we identify and assess the options available for revising the Fee calculation methodology to address the developments in the market since the current mechanism was designed.
- 5.2 We have considered a wide range of options. For the purposes of brevity, in this section we present our evaluation of six main changes, which can be categorised as follows:
- (1) changes to the costs used to calculate the Fee: Options 1, 2 and 3;
 - (2) changes to the Fee escalator: Options 4 and 5; and
 - (3) other changes: Option 6.
- 5.3 We discuss each category below. In each case, we explain the issue that the change seeks to overcome, and how it would do so. We then assess the extent to which the revised Fee would fulfil the criteria defined in Section 4.
- 5.4 In Section 6, we set out the detailed design and practical implementation of the options which we recommend be adopted as the Fee mechanism for the compliance year ending 31 December 2016.

Changes to the costs used to calculate the Fee

- 5.5 In Section 3, we explain that there is evidence to support the belief that some PCSs may be opting to pay the fee, as a strategic choice (Issue 6) and that, further, some Local Authorities are having difficulty securing collection contracts in the usual manner and are having to exercise their right of free uplift under Regulation 34 (Issue 8).
- 5.6 As we set out, we understand that there is significant variation in the costs of collecting WEEE from different sites and sources. We understand that collections from some types of LA-DCFs are particularly expensive, while purchasing evidence notes for “dual-use” WEEE may be the cheapest and the cost of collections from other sources will be somewhere in between.

- 5.7 Therefore, it may be that, when the Fee is set based on average collection costs, it is cheaper for a PCS to pay the Fee rather than undertake certain collections, even following the application of the escalator. A PCS could do this by meeting a proportion of its target through collections from lower cost sources and purchasing lower-cost evidence notes, then paying the Fee for a volume shortfall, rather than collecting the remainder of its target from high-cost sources. Costs also vary by PCS, as well as by site and source. If the Fee is set by reference to the costs of PCSs generally, this could distort the incentives of higher cost PCSs, who may find the Fee lower than their costs of collection. These factors may explain the possible “cherry-picking” behaviour we have identified. Such behaviour is particularly likely to emerge where a PCS’s collection levels indicate that it is likely to easily meet or exceed its target for the year.
- 5.8 A key principle underlying the Fee is that it should reflect the cost of uncollected WEEE, while incentivising PCSs to fulfil their volume targets through collections, rather than payment. The current Fee mechanism utilises the weighted average direct cost of collection of the PCSs that choose to use the Fee for each stream.
- 5.9 Given these factors, we consider that increasing the level of the fee by basing it on higher costs may address the issues numbered 6 and 8 in Section because it:
- (1) would create a stronger disincentive to under-collect WEEE; and
 - (2) may make the Fee more reflective of the costs of collecting the higher-cost WEEE that PCS have chosen not to collect.
- 5.10 We consider below three possible alternatives to the current approach of using the weighted average costs of all collections by PCSs which choose to use the Fee.
- Option 1: Calculate the Fee based on higher cost collection sites***
- 5.11 Under this option, the Administrator would need to collect disaggregated cost data from PCSs to identify the typical costs of collections from higher cost sites. It would then need to calculate the net cost of collection and treatment from higher-cost sites only for each stream of WEEE. The calculation of the cost of collection would 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.
- 5.12 The choice of how “higher cost” sites are defined would depend upon the nature of the underlying distribution of collection costs; it could be, for example, that the upper quartile would be appropriate.

5.13 Table 5-1 below summarises our assessment of this option.

Table 5-1: Assessment of Fee based on higher cost collection sites

Criterion	Assessment	Rating
Effectiveness	A Fee based only on the costs of collecting from higher cost sites is likely to be higher than the average cost to a PCS of collecting WEEE. It should strongly incentivise collection over payment of the Fee.	✓
Cost reflectivity	PCSs have the greatest incentive to collect from sites with the lowest collection costs. A Fee based on above-average collection costs will not necessarily be proportionate to the costs of collecting uncollected WEEE.	✗
Transparency	The methodology would be less transparent, as PCSs would only be expected to have limited knowledge of the distribution of collection costs across sites. Further, the choice of cost benchmark for setting the fee would be inherently somewhat arbitrary.	✗
Reasonableness	Submitting the required data would represent an unduly high administrative burden. It could be hard to justify the adoption of an arbitrary cost benchmark different to the weighted average.	✗
Feasibility	We understand that PCSs should have disaggregated data on the cost of different types of collection and it should be possible to provide this information within the time frame required. The calculation of the Fee may be more complex for the Administrator than a simple weighted average	✓
Robustness	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. However, we anticipate that the same level of review could be performed as for current submission. We do not consider that this approach would be any more vulnerable to manipulation by PCS than the current approach.	✓
Promotion of competition	If the Fee is based only on higher cost collections, this slightly reduces the risk of a PCS deducing whether or not it is more efficient than average PCSs, which may affect its competitive strategy. It also incentivises collection which should increase competition to collect WEEE.	✓

5.14 In summary, basing the Fee on the cost of collection from higher-cost sites would be a feasible approach, and it is likely to be effective. However, the choice of benchmark may be somewhat arbitrary and may not be reflective of the marginal cost of collection. Hence this approach may not be reasonable.

Option 2: Calculate the Fee based on only costs of collection from LA DCFs

5.15 As noted in Issue 6, described in Section 3, we understand that there is significant variation in the cost of LA-DCF collections. For the reasons described in paragraphs 5.6 and 5.7 above, this means that PCSs may have little incentive to collect from higher-cost LA-DCF. These collections are therefore in effect “marginal” collections. As we set out in Section 4, Regulation 34 embeds an implicit objective to incentivise collections from LA-DCF.

5.16 The methodology could be changed so that the Fee is based on only the costs of collections from LA-DCF.

5.17 We note that, while most PCSs are likely to have some evidence from LA-DCF collections for each WEEE stream that they collect, in some cases this will not be through a direct contract with the Local Authority. Further, given the significant variation in collection costs between different LA-DCF, we consider that there could be scope for PCSs to manipulate a fee based only on these costs. Therefore, if this option is adopted, it will be important to consider carefully what collection costs data should be used to set the Fee.

5.18 Table 5-2 below summarises our assessment of this option.

Table 5-2: Assessment of Fee based only on costs of collection from LA-DCF

Criterion	Assessment	Rating
Effectiveness	We would expect that this option would result in a higher Fee, because the cost of LA-DCF collections is higher than the cost of other collections. Therefore, this should increase the incentive for PCSs to achieve compliance through collection. It would also incentivise collections from LA-DCF in particular, which would support the objective reflected in Regulation 34 to ensure that all WEEE at LA-DCF is collected.	✓
Cost reflectivity	As described above, LA-DCF collections are in effect the “marginal” collections for PCSs, therefore we consider that they are likely to be a good proxy for the cost of uncollected WEEE.	✓

Criterion	Assessment	Rating
Transparency	The methodology is as simple as the current methodology. We understand that most PCSs will receive some evidence from LA-DCF collections and should therefore be able to form an expectation of the Fee level.	✓
Reasonableness	Submitting the required data would not represent an unduly high administrative burden. The calculation of the weighted average direct cost should be no more complex than in the current Fee mechanism.	✓
Feasibility	We understand that PCSs typically record information about both the cost and type of each collection. This option should therefore be feasible. Although some PCSs may not have robust data for the costs of collections from LA-DCFs for all WEEE streams, we consider that this could be overcome through the use of data submitted by other PCSs as described above.	✓
Robustness	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. However, we anticipate that the same level of review could be performed as for current submission. We do not consider that this approach would be any more vulnerable to manipulation by PCS than the current approach.	✓
Promotion of competition	If the Fee is based only on higher cost collections, this slightly reduces the risk of a PCS deducing whether or not it is more efficient than average PCSs, which may affect its competitive strategy. It also incentivises collection which should increase competition to collect WEEE.	✓

5.19 In summary, setting the Fee based on the costs of collection from LA-DCFs appears likely to address some of the issues we have identified. It is also compatible with all the criteria we consider, and we do not anticipate it introducing other unintended adverse consequences.

Option 3: Calculate the Fee based only on the costs of Regulation 34 collections

5.20 The Fee could be based on only the costs of Regulation 34 collections. By definition, a Local Authority will only make a request for collection under Regulation 34 when it has been unable to secure a collection agreement in the usual way. Therefore, the costs of these collections should closely reflect the costs of collecting uncollected WEEE.

- 5.21 As we note in Section 3, the use of Regulation 34 collections has been increasing but we understand that it remains a comparatively small proportion of the total. Therefore, it is plausible that a PCS wanting to use the Fee may not have made any collections under Regulation 34 for that WEEE stream. This would necessitate obtaining data on the cost of Regulation 34 collections from other PCS or other sources, or having an alternative Fee calculation approach.
- 5.22 We understand that it is likely that a PCS would use the same contractor in the event of a Regulation 34 request as they would use if they had voluntarily entered into an agreement to collect from that LA-DCF. The outcome of this option may consequently be very similar to Option 2.
- 5.23 Table 5-3 below summarises our assessment of this option.

Table 5-3: Assessment of Fee based on only the costs of Regulation 34 collections

Criterion	Assessment	Rating
Effectiveness	For the same reasons as Option 2, we consider that this option would incentivise compliance through collections.	✓
Cost reflectivity	When a Local Authority has to exercise its Regulation 34 rights to ensure that WEEE is collected, this suggests that this is the WEEE which PCSs are least incentivised to collect. Therefore, these collections should be reflective of the costs of collecting uncollected WEEE.	✓
Transparency	As Regulation 34 requests currently only account for a small volume of total collections, some PCSs may not have sufficient data to form a reliable expectation of the level of fee. The outcome may also be sensitive to small amounts of cost data submitted. This is likely to be a greater challenge for this option, compared to Option 2.	✗
Reasonableness	Submitting the required data would not represent an unduly high administrative burden and the calculation of the weighted average cost should be no more complex than in the current fee mechanism.	✓
Feasibility	As noted above and in relation to transparency, this option may not be feasible as Regulation 34 collections remain a comparatively small proportion of the total.	✗

Criterion	Assessment	Rating
Robustness	If this approach was adopted and the Fee was set based on a relatively small number of collections, this would increase the potential a PCS could attempt to artificially depress the Fee through manipulating its cost submission. Further, for the same reasons, the Administrator would have less data against which to benchmark submissions.	X
Promotion of competition	Consistent with Option 2, we consider that this option would reduce the likelihood that a PCS could deduce whether or not it is more efficient than average. It would also incentivise collections, which is pro-competitive.	✓

- 5.24 In summary, basing the Fee on only the cost of Regulation 34 collections, although conceptually attractive in some respects, would not necessarily provide any incremental benefit over Option 2 and may be harder to implement in practice due to data availability limitations.

Changes to the Fee escalator

- 5.25 The current methodology includes an escalator mechanism which increases the Fee by a greater amount the further the PCS is from their collection target. The principle underlying the escalator is to incentivise PCS to meet their targets through collections, and to penalise PCSs attempting to manipulate the system, while recognising that PCSs may have reasonable justifications for falling modestly short of their targets for some WEEE categories.
- 5.26 The issues identified in Section 3 suggest that:
- (1) the existence of excess supply in some WEEE streams means that the extent to which a shortfall is reasonable may be different for different WEEE streams; and
 - (2) given the availability of cheaper sources of WEEE and/or evidence notes, the current escalator may not create a strong incentive for all PCSs to collect WEEE, rather than pay the Fee.

Option 4: Apply a different escalator to WEEE streams with an aggregate supply surplus

- 5.27 As we set out in Issues 3 and 6 in Section 3, it appears that there may be a net supply surplus in some WEEE streams, compared to aggregate PCS targets, but that PCSs' expectations that the Fee will be modest means that they are nevertheless not incentivised to collect WEEE.

- 5.28 We can understand why a PCS may fail to meet its target in a market where the market target is greater than the level of WEEE in the market. However, where there is national oversupply of a category of WEEE, there is less justification for a PCS failing to meet its target. One way to address this would be to adopt two different fee escalators. One would operate in the same way as the current escalator and the other would apply to WEEE streams where, across the market, there is a net surplus of WEEE. The escalator for streams with a net surplus would impose a higher fee for a given shortfall than the current escalator.
- 5.29 The alternative escalator could be created based on the same inputs as the current escalator, but with a revised formula that increases the Fee by a greater amount for streams where there is an oversupply in the market, in proportion to the extent of oversupply. Implementing this would require the Administrator to identify WEEE streams which are in oversupply for the year, and use this to modify the Fee. In all other respects, this Fee would have the same informational requirements and would be no more computationally complex than the existing escalator mechanism.
- 5.30 This approach has the additional potential benefit that it will not be possible for PCSs to assess *ex ante* whether or not each WEEE stream has a surplus and thereby which escalator will apply. This increases the degree of uncertainty around the level of the Fee. This should strengthen the incentive for PCSs to fulfil as much of their target as possible from collections. However, the mechanism ensures that, where a PCS does have a modest shortfall which may arise for legitimate reasons, the escalator applied will be modest.
- 5.31 Table 5-4 below summarises our assessment of this option.

Table 5-4: Assessment of adjusting the escalator to reflect the balance of aggregate targets and aggregate supply

Criterion	Assessment	Rating
Effectiveness	A different escalator for WEEE streams in which there is a supply surplus would be effective in incentivising PCSs to meet their target through collections for these WEEE streams.	✓
Cost reflectivity	This option would increase the extent to which the Fee may deviate from the costs of collecting uncollected WEEE, for streams in oversupply. This is because the costs of collecting WEEE do not vary in proportion to whether there is excess supply. This may, nevertheless, be an appropriate approach under current market conditions.	✗

Criterion	Assessment	Rating
Transparency	The two escalators could be based on most of the same inputs, which means it would be equally as transparent as the current mechanism. However, we note that PCSs will not be able to assess <i>ex ante</i> whether or not a scheme is in surplus. Therefore, there is likely to be greater uncertainty over the level of the Fee. This uncertainty may be desirable.	✓
Reasonableness	We consider that it is reasonable to apply different escalators given the market conditions.	✓
Feasibility	We consider that implementing this option should be feasible, provided that it is designed in such a way that the Administrator has access to the information is requires to identify which mechanism should apply.	✓
Robustness	We consider that both escalators would be equally robust as the current escalator.	✓
Promotion of competition	This change would also increase the competition to collect WEEE from streams in which there is a supply surplus.	✓

- 5.32 In summary, we consider that this option would be effective in addressing some of the adverse consequences of excess supply in some WEEE streams. We also consider that it fulfils most of our criteria, although it is not wholly consistent with cost-reflectivity. But we note that the application of the escalator and the principle of cost reflectivity is consistent with the current methodology. This option alone does not address the incentive for PCSs to seek out the cheapest source of WEEE and/or evidence notes.

Option 5: Adjust the escalator to reflect the source of evidence used

- 5.33 Based on Issues 4 and 6, as described in Section 3, we consider that increasing availability of cheaper sources of WEEE/evidence notes may be distorting PCSs' incentives to collect WEEE from other sources.
- 5.34 The escalator could be adjusted so that a greater penalty for shortfalls is imposed on PCSs which fulfil a greater proportion of their target from low cost sources and a lower proportion from LA-DCFs. The current escalator may not sufficiently dis-incentivise these PCSs from accepting the Fee instead of completing their target from higher cost sites, whereas a revised escalator that takes into account the sources of each PCS's WEEE may do.
- 5.35 It would be necessary to consider further exactly how the escalator formula should be adjusted in proportion to the shares of WEEE obtained from different sources.

- 5.36 Practically, we understand that PCSs have the required information, including the sources of each of their collections. However, implementing this approach would require additional data from the PCS to be audited and the Administrator to collect and analyse this data.
- 5.37 We understand that PCSs may meet their collection targets using qualifying WEEE and/or evidence notes collected from any source. We understand that adjusting the Fee charged to different PCSs on this basis may not be consistent with the WEEE Regulations and/or other applicable law. We express no opinion on this matter as it falls outside our expertise.
- 5.38 Table 5-5 below summarises our assessment of this option.

Table 5-5: Assessment of adjusting the escalator to reflect the source of evidence used

Criterion	Assessment	Rating
Effectiveness	Adjusting the escalator to reflect the source of evidence used would increase the incentive to avoid the Fee. However, it could also reduce the incentive to collect from lower cost sources.	X
Cost reflectivity	This approach would represent a departure from cost reflectivity because the cost of uncollected WEEE does not depend on any individual PCS's average cost of collection.	X
Transparency	It would be possible in principle to design an adjustment to the escalator formula that would be transparent.	✓
Reasonableness	We consider it reasonable in principle that the Fee should be designed in a way that dis-incentivises PCSs from cherry-picking low cost WEEE.	✓
Feasibility	For the reasons noted above, we consider that there may be practical data limitations (as well as potential legal issues) that mean this option is not feasible.	X
Robustness	We do not consider that a Fee escalator designed in this way would be capable of manipulation by PCSs.	✓
Promotion of competition	As noted in relation to Effectiveness, while this option would increase the incentive to collect from some sources, which would promote competition, it would also reduce the incentive to collect from others, which would weaken competition.	X

5.39 In summary, we consider that this option may be too complicated to implement. It is also unclear how the escalator should vary in relation to the sources of WEEE/evidence collected by a PCS. We also note that potential legal obstacles are outside our expertise. Adopting Options 2 or 3 above may provide some of the same benefits in a more reasonable and cost-reflective way.

Other changes

Option 6: Increase the uncertainty in the Fee calculation

5.40 As described in our discussion of Issue 6 in Section 3, we consider that the possible “cherry-picking” behaviour by PCSs may arise partly due to the degree of certainty that PCSs have about the future level of the fee.

5.41 The more uncertain the Fee, the less PCSs should be incentivised to consider whether it is more profitable to pay the Fee rather than make collections.

5.42 Increasing uncertainty over the expected Fee would require either:

- (1) data inputs which are inherently unpredictable or not transparent to PCSs; or
- (2) greater discretion for the Administrator in setting the Fee.

5.43 It would be necessary to consider further how uncertainty could be created and how to assess what is the right level of uncertainty. Creating greater uncertainty through greater discretion for the Administrator would not require any additional data, nor an explicit adjustment to the calculation methodology, but this falls outside of the strict scope of this review.

5.44 Table 5-6 below summarises our assessment of this option.

Table 5-6: Assessment of an increase in uncertainty in the Fee calculation

Criterion	Assessment	Rating
Effectiveness	An increase in the uncertainty over the level of the Fee should be effective in encouraging collection, rather than use of the Fee. This is because businesses generally seek to avoid uncertainty in their financial planning and the costs of collection will generally be relatively certain.	✓
Cost reflectivity	We do not consider that any option for introducing greater uncertainty in the Fee could be consistent with cost reflectivity, as costs should be comparatively stable and predictable.	✗
Transparency	An increase in uncertainty requires a reduction in transparency.	✗

Criterion	Assessment	Rating
Reasonableness	It is not necessarily unreasonable to use uncertainty as a means to incentivise collection over use of the Fee.	✓
Feasibility	It is not clear that the Administrator would have the necessary knowledge and information to appropriately manage the extent of uncertainty.	✗
Robustness	If the level of and process for setting the Fee is made more uncertain, it is inherently harder for PCSs to manipulate it.	✓
Promotion of competition	We do not consider that an increase in the uncertainty of the level of the Fee would have a significant effect on competition. To the extent that an uncertain penalty for under-collection increases risk and thereby discourages entry or expansion into the WEEE collection market, it could have a negative effect.	✗

5.45 In summary, we consider that while greater uncertainty over the Fee might help to address some of the issues we have identified and would fulfil some of our criteria, it is unclear exactly how the Fee mechanism could be changed to embed uncertainty.

Summary conclusions on the options for change considered

5.46 The below table summarises to what extent each of the options for change we have considered is consistent with our criteria for the Fee design.

Table 5-7: Summary of our appraisal of options for change

Criterion	Option					
	1	2	3	4	5	6
Effectiveness	✓	✓	✓	✓	✗	✓
Cost reflectivity	✗	✓	✓	✗	✗	✗
Transparency	✗	✓	✗	✓	✓	✗
Reasonableness	✗	✓	✓	✓	✓	✓
Feasibility	✓	✓	✗	✓	✗	✗
Robustness	✓	✓	✗	✓	✓	✓
Promotion of competition	✓	✓	✓	✓	✗	✗

- 5.47 With respect to **effectiveness**, the revised methodology should not significantly deviate from the principle that the Fee should incentivise the fulfilment of targets through collections. Most of the options would achieve this, however only Options 2 and 3 would do so without introducing some degree of deviation from **cost reflectivity**.
- 5.48 Options 2, 4 and 5 would continue to fulfil the **transparency** criterion, but it remains important that confidentiality is maintained in the methodology proposed.
- 5.49 We consider that all the options we have reviewed except Option 1 are **reasonable** in principle and all except Options 3, 5 and 6 are **feasible**.
- 5.50 We consider that all of the options considered would be at least equally **robust** as the current methodology, with the exception of Option 3.
- 5.51 Finally, we do not consider that any of the proposed alternative methodologies would significantly alter the extent to which the Fee **promotes competition** in the WEEE collection market, although Options 5 and 6 could have marginally adverse consequences.
- 5.52 We set out our conclusion regarding which of these options should be adopted in Section 6, and then explain in more detail how we consider our proposed changes should be implemented.

6. Our recommended revised methodology

Introduction

- 6.1 In this section, we set out the detailed design and practical implementation of the revised Fee methodology that we recommend be adopted. We first assess the methodology against our criteria listed in Section 4 before setting out the mechanics of our proposed revised methodology.

Description of the changes to the methodology

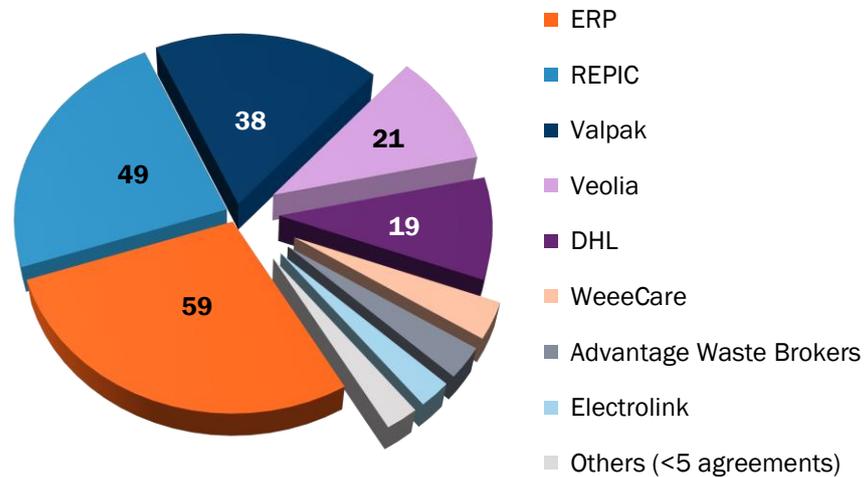
- 6.2 Our recommended changes combine Options 2 and 4 described in Section 5, in a way which also captures some of the advantages of Option 6. This meets the majority of our criteria. We have looked to combine these options in a way that addresses the issues identified in Section 3.
- 6.3 In summary, the changes that we recommend are to:
- (1) base the Fee on the weighted average direct costs of LA-DCF collections from all PCSs choosing to submit data (whether voluntarily or because they wish to use the Fee); and
 - (2) adopt two different fee escalators. One would operate in the same way as the current escalator and the other would apply to WEEE streams where, across the market, there is a net surplus of WEEE. The escalator for streams with a net surplus imposes a higher fee for a given shortfall than the current escalator.
- 6.4 In our view these are the changes that we consider will be most effective in addressing the issues that have arisen in the market since the Fee design was last reviewed and will result in the most economically robust methodology. We describe these changes further below.
- 6.5 We consider that all other aspects of the Fee design, to which we do not propose changes, should remain consistent with the approach adopted in the previous compliance year.

Changes to the costs used to calculate the Fee

- 6.6 To fulfil our cost reflectiveness criterion, we consider that the Fee per tonne should be related to the costs that a PCS would have incurred (and the income it would have earned, if any) if it had arranged for the collection and treatment of an additional tonne of WEEE for the relevant WEEE stream. As described in Section 3, this cost is typically higher for LA-DCF collections and PCSs will therefore seek to fulfil as much of their volume target as possible from cheaper sources. LA-DCF collections are therefore effectively “marginal” collections. The best proxy for the cost of uncollected WEEE is likely to be the weighted average cost of collections from LA-DCFs. Further, this will specifically incentivise collections from LA-DCFs, which would support the objective reflected in Regulation 34 to ensure that all WEEE at LA-DCFs is collected.
- 6.7 Accordingly, we propose that the cost calculation should be modified to be calculated as the weighted average direct cost of collection from LA-DCF sites, for each WEEE stream. We consider that the scope of costs included within the Fee calculation should remain consistent with the current Fee methodology. That is, the Fee should reflect only the additional costs and income associated with collecting and treating an additional amount of WEEE. It should therefore include all direct costs and revenues associated with collection and treatment of WEEE from LA-DCFs (i.e. net cost). 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.
- 6.8 The Fee for the 2014 and 2015 compliance years for each stream was based on the weighted average direct cost of collections in that stream by PCSs which requested to use the Fee. Under this approach, the Administrator requests that each PCS which wishes to use the Fee submits its cost data and then calculates the Fee based on the weighted average net cost of collection and treatment of each stream of WEEE.
- 6.9 We understand that, while most PCSs are likely to have some evidence from LA-DCF collections for each WEEE stream that they collect, in many cases this will not be through a direct contract with the Local Authority. Figure 6-1 below illustrates that the 209 LA-DCF collection contracts are not evenly distributed among the 35 registered PCSs.¹⁵

¹⁵ The 35 PCSs registered by the Department for Business, Energy and Industrial Strategy are listed in the following document:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537214/LIT8_816.pdf

Figure 6-1: Distribution of LA-DCF collection contracts among PCSs



Source: Department for Business, Energy and Industrial Strategy¹⁶

- 6.10 There is therefore the possibility that a PCS which wishes to use the Fee may “cherry pick” low cost LA-DCFs from which to collect, or may purchase evidence notes from lower cost LA-DCF collections, which would then be used to calculate its costs. There is therefore the risk that the weighted average costs of LA-DCF collections of PCSs which wish to use the Fee do not represent the average cost of collecting uncollected WEEE.
- 6.11 To overcome this, we propose that the Fee should be set based on all unit cost data submitted to the Administrator by all PCSs, including those which voluntarily submit data even if they do not use the Fee. We understand that mandating data submission would however be incompatible with the WEEE Regulations, although we express no view on this point as it is outside our expertise.
- 6.12 It will be important for the Administrator to ensure that it requests all of the relevant data and confirms with PCSs that the data they submit includes all the relevant costs of all relevant collections. We note the possibility that a PCS which wishes to use the Fee may not have appropriately robust data on the cost of collection from LA-DCFs for a given WEEE stream. We set out a revised pro forma template for collecting the required cost information from PCSs in Appendix 4.

¹⁶ Data extracted from: <https://www.gov.uk/government/publications/weee-list-of-local-authority-designated-collection-facilities/weee-list-of-local-authority-designated-collection-facilities>

- 6.13 Once the data has been obtained and verified, we would propose that the weighted average cost of collection per tonne is then calculated in the same manner as under the current Fee methodology. We consider that, where a PCS is not able to submit appropriately robust data, the Administrator should set a fee based on the cost data submitted by other PCSs, including those which may voluntarily submit data to the Administrator regardless of whether or not they intend to use the Fee.

The revised escalator mechanism

- 6.14 The escalator mechanism increases the Fee which a PCS must pay per tonne of shortfall in proportion to the size of the PCS's shortfall relative to its target. This mechanism incentivises 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 target volume of WEEE.
- 6.15 In our view, a non-linear escalator remains appropriate and promotes the effectiveness of the Fee, by creating an increasing disincentive for PCSs to under-collect as the shortfall increases.
- 6.16 We consider that the Fee for streams of WEEE where there is a net shortfall versus aggregate targets should continue to be calculated using the previous escalator formula:

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

- 6.17 Where:

- f_n is the Fee for the relevant stream, in GBP.
- k_n is the weighted average net cost of collection for the stream, in GBP per tonne. The calculation of this is explained below.
- t_n is the PCS's target for the stream, in tonnes.
- c_n is the amount of the stream of WEEE collected by the PCS, in tonnes.

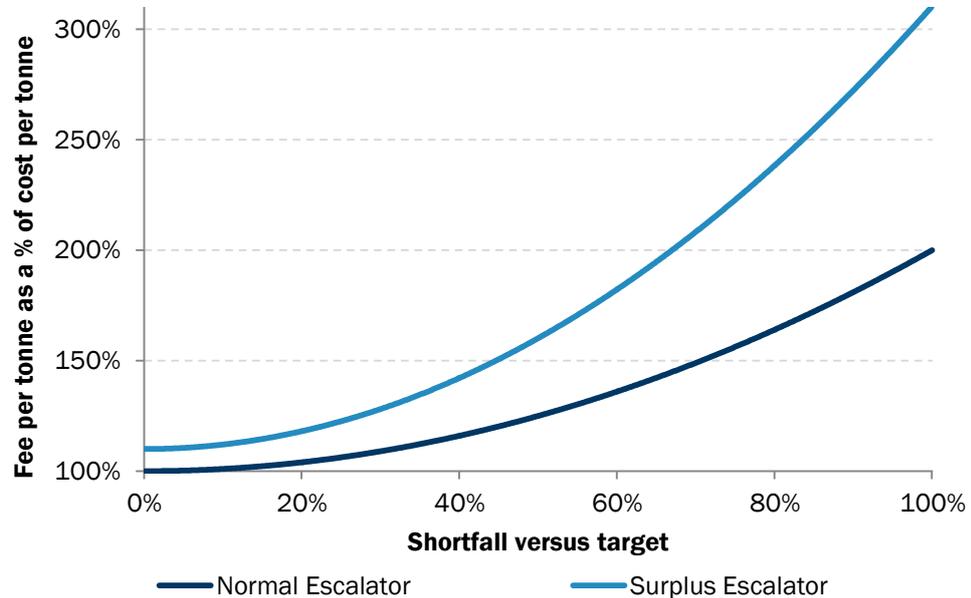
- 6.18 We refer to this as the Normal Escalator.

- 6.19 However, we propose that the Normal Escalator described above – which previously applied in all circumstances – should be modified for streams of WEEE where there is a net surplus versus aggregate targets, to use the following revised formula. The changes compared to the previous formula are highlighted:

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

- 6.20 Where:
- C_n is the sum of household WEEE collections by all PCSs in the relevant stream in the market, in tonnes.
- T_n is the national target for that stream, in tonnes.
- 6.21 We refer to this revised formula as the Surplus Escalator. It is based on the same inputs as the Normal Escalator. The two proposed adjustments:
- (1) increase the initial level of the escalator; and
 - (2) increase the rate at which the Fee increases with increasing levels of collection shortfall versus target.
- 6.22 These adjustments mean that the Surplus Escalator:
- (1) starts at an uplift over the cost of collection which is proportionate to the extent of oversupply in that stream. This means that a PCS will pay a Fee per tonne which exceeds the weighted average cost of collection – even for a shortfall of a single tonne – which will further dis-incentivise under-collection; and
 - (2) increases the uplift more quickly than the Normal Escalator as the extent of the shortfall increases. This means that it further dis-incentivises under-collection, where this should be easily avoidable.
- 6.23 We note that, in principle, the total aggregate supply in the market should be used as the numerator of the fraction which calculates the initial uplift, rather than the sum of aggregate collections. This is because, otherwise, if PCSs collectively systematically under-collected then no uplift would apply although there could theoretically be uncollected WEEE in the market. However, we consider that aggregate under-collection in this form is unlikely and we further note that data on aggregate supply is unlikely to be available to the Administrator.
- 6.24 In the figure below, we illustrate how the Fee per tonne changes as a PCS's collection shortfall increases, using each escalator.

Figure 6-1: Effect of escalator mechanism on Fee per tonne of shortfall



Note: The “Surplus Escalator” is shown based on an illustrative initial uplift of 10%. As set out above, the magnitude of this uplift would vary depending upon the factor by which total collections exceed the aggregate WEEE target.

6.25 This figure shows that, under the Normal Escalator, the uplift to the Fee per tonne is around 4% for a shortfall of around 20%. Whereas, under the Surplus Escalator, given a *de minimis* initial uplift, the cost uplift is approximately double, for the same shortfall.

6.26 In our opinion, it is fair and appropriate that :

- (1) both escalators more heavily penalise a PCS which has a larger shortfall. Under the Normal Escalator, the uplift is very modest for small shortfalls because falling, say, 10% short could be due to factors beyond the PCS’s control, like the target being inadvertently set too high. Being 90% short should be avoidable; and
- (2) a PCS is more heavily penalised per tonne for falling short of its target when there is in fact an aggregate surplus in the market for that WEEE stream, than it is for the same shortfall when there is not an aggregate surplus. This is because, in the presence of a surplus in the market, it should be easier to avoid a shortfall and, if one arises, this is therefore more likely to reflect intentional under-collection by the PCS.

6.27 We expect that this should discourage PCSs from deliberately under-collecting to any significant degree, even from sites with relatively high costs. This is directly in line with the objectives of the Regulations and associated DEFRA guidance.

6.28 The Administrator will need to determine whether the Normal Escalator or the Surplus Escalator applies to each WEEE stream. We propose that a threshold amount should be defined, above which the stream is assessed to be in surplus. We consider that this should be assessed on a basis consistent with the initial uplift for the surplus escalator, i.e. based on the difference between; (i) the sum of household WEEE collections by all PCSs in the relevant stream in the market, in tonnes; and (ii) the national targets for that stream, in tonnes.

6.29 Based on discussions with the JTA, we provisionally propose that this should be set as a fixed proportion of the total tonnage of WEEE collected in each stream, of 1.5%. That is, if the sum of household WEEE collections exceeds the sum of PCS targets by more than 1.5%, then the Surplus Escalator should apply. That is, the Surplus Escalator should apply if:

$$\frac{C_n}{T_n} - 1 > 1.5\%$$

6.30 Where:

C_n is the sum of household WEEE collections by all PCSs in the relevant stream in the market, in tonnes.

T_n is the national target for that stream, in tonnes.

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

Rationale for the changes

6.32 Below, we set out the rationale for these changes to the Fee calculation methodology by reference to the criteria discussed in Section 4.

Effectiveness and cost reflectivity

6.33 We consider that the changes proposed will be **effective** at incentivising compliance by collection, rather than by paying the Fee, because the Fee will now be wholly based on LA-DCF collection costs, which are generally higher than other sources of WEEE and/or evidence notes. Therefore, the incentive to undertake LA-DCF collections should be increased.

- 6.34 Overall, the Fee will remain **cost reflective** except where the Surplus Escalator applies, in which case we consider that the divergence from the principle is justified because shortfalls are much less likely to arise as a result of legitimate conduct. In addition, *ex ante* uncertainty about which Fee escalator will apply will further incentivise collection, rather than use of the Fee, while ensuring that the Fee does remain modest and cost reflective when legitimate shortfalls occur.
- 6.35 The harmful externalities associated with untreated WEEE will be reduced under this methodology, without creating undesirable market distortions.

Transparency

- 6.36 The changes do not substantially alter the existing calculation methodology. We consider that the methodology remains straightforward and comprehensible to all PCSs. We also do not propose that the data confidentiality provisions should change. Those PCSs that wish to use the Fee will continue to see the weighted average net cost of LA-DCF collections, but they will be unable to derive any confidential information from this average figure because they will not know which other PCSs' data has contributed to the calculation. The methodology is therefore transparent without comprising confidentiality.

Feasibility and reasonableness

- 6.37 We understand from our discussions with the JTA that the additional information on the type of collections to be submitted should be readily available to any PCS. We consider that the assurance requirement to perform Agreed Upon Procedures (as adopted for the 2015 compliance year) remains proportionate given the time constraint and will help ensure the accuracy of data submissions while not being unduly burdensome. The scope of the auditor's work, applicable standards and a pro-forma report on procedures performed are set out in Appendix 5.
- 6.38 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. The Administrator will also need to assess which escalator should apply to each WEEE stream. We consider that they will have sufficient information and knowledge to do this.
- 6.39 As a result, we consider that the methodology is feasible and reasonable.

Robustness

- 6.40 Under the revised methodology, the only way that a PCS can manipulate its own Fee or that of other PCSs remains by submitting misstated data. We propose to retain the same provisions as the current methodology to prevent this.¹⁷ In summary, in our opinion it would be extremely difficult for any PCS to manipulate this Fee mechanism.

Promotion of competition

- 6.41 First, the revised methodology further incentivises PCSs to collect WEEE, rather than pay the Fee. It therefore increases the incentive for them to be as efficient as possible so as to reduce their costs. This acts as an incentive for innovation for all operators.
- 6.42 Second, the change to the cost basis reduces the extent to which a PCS can benchmark its own costs against the weighted average cost figure, as this will now only reflect the cost of LA-DCF collections, rather than all collections.
- 6.43 Third, the changes will not have material impact on incentives for entry or expansion in the market. In our view, as economists and accountants, this methodology will preserve and enhance the pro-competitive incentive created by the current methodology.

Data collection and verification and fee calculation

- 6.44 We now set out the process that we propose the Administrator should follow to collect the data it requires from PCSs, verify this data and to calculate the fee. We then summarise the proposed timetable for this process. This process has not materially changed from the approach for the Fee for the compliance years ending December 2014 and December 2015.
- 6.45 For our “cost reflectivity” 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. As explained above, we propose that this is best approximated by the cost of collections from LA-DCFs.

¹⁷ That is: the PCS must engage a registered auditor to perform agreed upon procedure over their submitted data; the Administrator has the option of contacting each auditor directly to confirm the opinion; the Administrator compares submitted net unit cost data between PCS to identify any anomalies; and, if the Administrator is not able to resolve any anomalies, it has the discretion to request a fuller audit of data, or reject the submission,

6.46 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 may, in some market conditions, have value 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 additional WEEE. Overhead costs, including administration, marketing, human resources and office rent are not incremental or directly related to the quantity of WEEE collected, 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. An exercise to correctly and consistently allocating a portion of common overhead costs to household WEEE would be disproportionately time-consuming and costly.

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.

Data collection

6.47 Calculation of the weighted average net cost of collection (from LA-DCFs) 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.

6.48 Following the announcement of the Fee methodology by mid-February,¹⁸ 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.

¹⁸ Guidance on submitting proposals for a WEEE Compliance Fee Methodology, July 2016, DEFRA.

- 6.49 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.
- 6.50 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.
- 6.51 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 and this data will also be taken into account in setting the Fee. 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.
- 6.52 PCSs will arrange for an independent review of the submitted data. A registered auditor will be engaged by each PCS to perform agreed upon procedures on whether the net cost data provided is misstated, in accordance with a set of agreed upon procedures. This engagement provides limited assurance based on specific procedures performed over 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 assurance report that would be required.
- 6.53 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 DEFRA announces 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

- 6.54 After PCSs have submitted data on their net costs, the Administrator will undertake several verification exercises.

- 6.55 The Administrator will first review the independent auditor's reports 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.
- 6.56 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).
- 6.57 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

- 6.58 Once data has been received and verified, the Administrator will calculate the Fee for each PCS that needs to use it, as described below.
- 6.59 First, the Administrator will 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 from LA-DCFs 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 from LA-DCFs and treated by those PCSs.
- 6.60 This calculation results in the K parameter, to be used in the applicable Escalator formula as set out 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.
- 6.61 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, 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.
- 6.62 Second, the Administrator will evaluate whether the Normal Escalator or the Surplus Escalator should apply to each WEEE stream. To do this, the Administrator will sum (i) the total collections made by all PCSs in each WEE stream and (ii) the total targets for all PCSs, set by the EA, for each WEEE stream. If (i) exceeds (ii) by more than the threshold level of 1.5% of the total target volume, then the Surplus Escalator applies.

- 6.63 Finally, the Administrator will use the formulae 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.

Summary of timeline

- 6.64 In Table 6-1 below, we summarise the timeline outlined above.

Table 6-1: Summary of methodology timeline

Date	Step
31 December	End of compliance year
Mid February	DEFRA 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

Summary

- 6.65 We consider that our proposed changes to the Fee calculation methodology adopted for the previous two compliance years will enable the Fee better to fulfil the criteria we have defined and will address some of the concerns stakeholders have expressed about the current functioning of the WEEE collection market.
- 6.66 In particular, this revised methodology will increase the incentive for PCSs to comply through collection (particularly from LA-DCFs), helping to reduce the negative externalities associated with untreated WEEE, without introducing significant market distortions.

- 6.67 The revised methodology remains practical, not unduly burdensome for either PCSs or the Administrator and straightforward for all stakeholders to understand. It would also be difficult to manipulate the Fee mechanism under this methodology. Lastly, it should help improve competition in the WEEE market, in particular by incentivising PCSs to operate more efficiently.
- 6.68 We consider that these amendments to the previous Fee calculation 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 Mark Bosley.

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.

Navin Waghe

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CERTIFICATIONS

Chartered Accountant

PROFESSIONAL AFFILIATIONS

Fellow of the ICAEW

EDUCATION

BSc (Hons) Management
Science, UMIST, 1998

PREVIOUS POSITIONS

LECG Ltd, Principal, 2004-2011

PricewaterhouseCoopers,
Executive, November 1998 –
December 2003

Navin Waghe is a Managing Director in the FTI Consulting Economic and Financial Consulting practice based in London. Navin joined FTI Consulting in April 2011.

Prior to FTI Consulting, Navin Waghe joined LECG in January 2004 having spent five years working for PricewaterhouseCoopers, in their assurance and business advisory department. Navin is a Fellow of the Institute of Chartered Accountants in England and Wales.

Navin has extensive experience of working for a range of clients across different sectors. He is considered and acts as an expert specialising in providing advice in relation to accounting disputes, assessing losses, valuation, competition, pricing, industry frameworks, regulatory reviews and cost allocation.

During his 17 years in financial analysis and economic consultancy, Navin has undertaken a wide range of assignments globally. His roles have involved acting as an Expert and leading the production of independent expert reports.

Navin's international arbitration and domestic litigation practice typically focuses on the assessment of lost profits, valuation, accounting disputes, wasted costs, cost allocation and expert determinations. He has worked on matters before the UK High Court, the AAA, UNCITRAL and ICC arbitration forums, the Upper Tax Tribunal and in mediation.

Navin has acted as an expert on a number of matters, most recently in relation to a large dispute where he provided oral evidence before an ICC Tribunal. Navin has also managed two large Expert Determinations.

Additionally, Navin is an expert on providing competition and regulatory advice, particularly in relation to follow-on damages, market investigations, pricing issues, cost allocation and accounting separation. His roles have involved acting before competition authorities, government departments, and regulatory bodies.

Navin often presents to law firms on valuation and damages issues, and has acted as an expert witness at advocacy workshops organised by the Foundation for International Arbitration Advocacy (FIAA).

Professional Experience

Dispute Consulting

Private Healthcare: Appointed as expert in relation to a dispute between a private healthcare group and a private medical insurer.

Expert Determination in the energy sector: Appointed as expert in relation to a dispute between parties on the appropriate allocation of a projects costs.

Gas pipeline project, breach of contract: Appointed as expert in providing advice in relation to the assessment of incurred and projected costs and consequential losses in a large dispute regarding a gas pipeline contract. Involved the production of three expert reports and providing oral evidence before an ICC tribunal.

BIT dispute between a Middle Eastern government and a Turkish investor: Appointed as expert in relation to the assessment of losses in relation to a dispute between the contractor and the government ministry in relation to the expropriation of pipeline contract. Scope of work relates to the calculation of wasted costs, lost profits and consequential losses.

Dispute between law firm partners: Appointed as expert in relation to the quantification of the appropriate split of profits between partners in dispute. Involved a detailed review of accounting data and a cost allocation exercise.

Expert Determination between two market research firms: Provided advice in relation to a dispute relating to the sale of a very large marketing research firm and specific disputed items in the Completion Accounts. Involved the consideration of both parties' submissions to determine an independent expert determination. Involved significant consideration of clauses in the SPA and the appropriate accounting treatment.

Expert Determination in the metals industry: Provided advice in relation to the preparation of submissions in an Expert Determination in relation to certain disputed items in the Completion Accounts.

Dispute between hedge funds: Advice in relation to the assessment of losses in relation to the alleged solicitation of key staff and client data. Losses were assessed on a cash flow and Wrotham Park basis.

Dispute between investors and a UK Government department: Provided advice in relation to the assessment of losses in a dispute between property and sovereign wealth fund investors and an independent UK Government department. Scope of work entailed assessing lost profits, wasted costs, and opportunity costs.

Breach of contract dispute between two television companies: Provided advice in relation to the quantification of losses arising from the termination of certain television series. Involved a forensic analysis of relevant costs incurred and a detailed assessment of the allocation of costs between different television series.

Rail industry, dispute between operator and Eastern European Country: Provided advice in relation to cost allocation and asset valuation issues in the context of a dispute over the calculation of regulated rail access charges in an Eastern European country.

Expropriation in CIS: Provided advice in relation to assessment of losses in relation to the expropriation under a BIT of an investment in a cotton factory in a CIS country. Involved an assessment of wasted costs, lost profits and opportunity costs.

UK airport charges, dispute between a UK airport and an airline operator: Provided advice in relation to a complaint made by an airline operator disputing the airport charges. Involved determining an appropriate level of airport charges and appropriate cost allocation methodologies to apply.

Pay TV dispute: Provided advice and the production of expert reports in relation to a dispute between BT and Sky regarding Pay TV access charges. The case was heard before the UK Competition Appeal Tribunal, and related to the price at which BT should gain access to Sky Sports 1 & 2.

Multi-party dispute in CIS: Provided advice to a group of claimants to assess the losses suffered in relation to various investments in a CIS country. Involved the assessment of wasted costs, lost profits, and opportunity costs arising from the alleged behaviour of the CIS country's government under a BIT and customary international law.

Expert Determination between two beverage distributors: Provided advice in relation to an Expert Determination in the context of a dispute between two beverage distributors relating to the breach of terms of a joint venture agreement.

Sports apparel industry, breach of contract: Provided advice in relation to assessing losses related to the value of a failed distribution agreement in sports apparel distribution sector.

Electronics industry, breach of contract: Provided advice in relation to the assessment of losses in a case heard before the American Arbitration Association. The dispute related to a failed distribution agreement in the technology and electronics sector.

English Football Club, arbitration pursuant to Rule K of the rules of the Football Association: Provided advice in relation to the assessment of the losses suffered by an English football club following its relegation from the English Premier League in the context of a dispute with another English football club. The case settled before the oral hearing.

Middle East telecoms dispute: Provided advice in relation to assessment of the losses arising from a complex dispute under UNCITRAL Arbitration rules relating to a loss of profits case involving the expropriation of a mobile phone operator's contract in the Middle East.

Electronics industry, India: Provided advice relating a commercial dispute in the Indian Electronics sector.

John Pottage v FSA: Provided advice in relation to the defence of a senior bank executive regarding an action brought by the FSA and his appeal against a ruling by the RDC. The case was heard before the Upper Tribunal (Tax and Chancery Chamber) Financial Services.

Irish Tax dispute: Provided advice in relation to assessing a dispute on the correct interpretation of the instruments used to effect a transaction entered into by an Irish company disputing a tax assessment on that transaction with the Irish Revenue Commissioners.

Financial Services, Ireland: Provided advice in relation to a dispute between a Credit Union and a bond provider concerning lost investments as a result of the misrepresentation of certain bonds by the provider.

English Football Club, shareholder dispute: Provided advice in relation to a dispute between a group of shareholders of a premier league football club and the holding company.

Economic and regulatory consulting

FX spot trading, European Commission investigation: Appointed as expert by an investment bank in relation to the European Commission's investigation into FX spot trading.

Energy sector, UK CMA market inquiry: Appointed as expert in relation to providing advice to a large energy generation and supply company in the context of the Competition and Markets Authority energy market investigation.

FX spot trading, ComCo investigation: Appointed as expert by an investment bank in relation to the Swiss ComCo investigation into FX spot trading.

Wholesale Investment and Corporate Banking study: Appointed as expert in relation to providing advice in relation to the FCA's market study including the appropriate assessment of profitability.

Electronics industry, Compliance Fee proposals: Appointed as expert in relation to providing advice to the Joint Trade Association in relation to setting an appropriate compliance fee methodology. Involved the provision of an expert report and oral presentation to BIS.

Payday lending, UK CMA market inquiry: Appointed as expert in relation to providing advice in relation to profitability in the context of the Competition Commission's investigation into payday lending. Involved the provision of an expert report.

Private Healthcare, South African Competition Commission market inquiry: Advice in relation to a SACC market inquiry of private healthcare providers in South Africa. The scope of work relates to assessing a South African private healthcare provider has earned excessive profits.

Private Healthcare, UK CMA market inquiry: Provided advice in relation to a CMA market inquiry of private healthcare providers in the UK. The scope of work included whether a UK private healthcare provider has earned excessive profits, the production of an expert report and making oral representations to the CMA.

LIBOR, European Commission investigation: Provided advice in relation to a European Commission LIBOR investigation into product profitability. Involved the assessment of profitability the production of an expert report and oral representations to the European Commission.

Technology, European Commission investigation: Provided advice to a US global technology corporation in the context of a European Commission excessive pricing investigation. 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.

Financial services market data, European Commission investigation: Provided advice in the context of a European Commission excessive pricing investigation. Led the team in assessing the appropriate cost reflective prices to be applied to a global financial services information provider's products. The review involved assessing appropriate cost allocation principles and building a cost allocation model to determine appropriate prices.

Policyholder Advocate, reattribution of Aviva with-profits funds: Managed the assessment of a negotiation in the context of a complex reattribution and the subsequent offer between a major insurance group and policyholders. Involved an assessment of the most appropriate reattribution for customers and providing oral communication in findings to stakeholders.

UK post, net cost of the USO: Performed a review of the financial cost of the universal service obligation on Royal Mail's profits for Postcomm.

UK post, Royal Mail efficiency review and price control: Undertook an efficiency review and developed a price control financial model for Postcomm. Involved determining the total level of allowable revenues over the current price control and a consideration of different tariff structure options.

UK post, Royal Mail's zonal pricing proposal: Reviewed Royal Mail's underlying costs from its application to allow postal prices to vary according to delivery zones for Postcomm.

UK airports, air traffic services review: Assisted the CAA in performing a review of NERL's costs, efficiency forecasts and business plans in relation to the third price control.

UK airports, BAA price control: For the CAA, performed an assessment of BAA's revenue and cost allocation processes in relation to its price control review. The project involved the development of a framework to assess the fair allocation of costs between designated airports and the construction of a complex cost allocation model to support regulatory policy.

Private equity, acquisition of pension liability: Built a complex pensions block liability model for a group of investors. This work involved modelling the key pension drivers and actuarial assumptions to generate a model that derived business value, regulatory capital requirements and key pension financials for numerous investment scenarios.

UK post, Royal Mail price control advice: Provided advice to Royal Mail in relation to the price control covering the period 2011-16.

UK post, Royal Mail's strategic plan: Engaged by Royal Mail to provide finance, accounting, and economic advice in relation to Royal Mail's Strategic Plan.

UK post, Royal Mail financial performance: Led the team performing econometric and financial analysis for Royal Mail to inform senior management on the internal performance of Royal Mail's various pipeline activities.

UK post, Government independent review: Provided consultancy support directly to Postcomm's Chairman and management team in relation to the Government's Independent Review of the UK Postal market.

UK post: Royal Mail interim price control review: For Postcomm, led the team in forensically analysing Royal Mail's financial position and comparing it to previous forecasts, to identify the underlying causes of weaker financial viability.

Water industry, Scotland: Advised WICS, the water industry regulator in Scotland. Provided advice on process for the upcoming strategic review of prices and performed a review of the state of separation between Scottish Water and Scottish Water Business Stream.

Mark Bosley

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PROFESSIONAL AFFILIATIONS

ACA Chartered Accountant
ICAEW
2012

EDUCATION

M.A. (Cantab) Economics, 1st
University of Cambridge
2008

PREVIOUS POSITIONS

PricewaterhouseCoopers LLP
Associate / Senior Associate
April 2009 to August 2014

Mark is a Director in the Economic and Financial Consulting practice based in London.

He holds a first class degree in Economics from the University of Cambridge and is a Chartered Accountant. He has substantial experience of undertaking economic and financial analysis in the context of competition investigations and disputes and economic regulation. He also has experience of preparing expert reports in the context of claims for damages in commercial disputes.

Prior to joining FTI Consulting, he began his career with PricewaterhouseCoopers where he completed the graduate training programme in the banking and capital markets audit division and then moved into the economic consulting team. He has also previously undertaken a secondment to the Office of Fair Trading.

He joined FTI Consulting in September 2014. He has prior experience of projects across a range of industries, including:

Energy supply and generation,

- Regulated utilities,
- Healthcare (public and private sector),
- Financial services,
- Information technology,
- Telecoms and media, and
- Professional services.

Professional Experience

Competition and economic regulation

Competition appeal: Advice to British Telecom in the context of its appeal of Ofcom's decision on the regulation of wholesale pay TV

Assisted the client in reviewing the Defendant's submissions in relation to financial analysis and preparing an independent expert witness statement addressing matters raised by the Defendant.

Competition investigation: Advice to a major European energy company in connection with the UK Competition and Markets Authority investigation

Provided extensive advice and support to the client throughout the course of its two year investigation on matters relating to pricing, economic profitability and efficiency. His responsibilities included:

- drafting independent reports on behalf of the client on a confidential basis under the rules of "disclosure rooms" operated at the CMA;
- drafting substantial responses on behalf of the client to successive CMA publications;
- overseeing financial modelling to support the client's submissions, including adjustments to accounting data required to assess economic profitability; and
- researching relevant regulatory precedent from the UK and overseas for approaches to assessing profitability and profitability benchmarks.

Competition investigations: Private healthcare

Provided advice and support to a major private healthcare provider in South Africa in the context of an investigation by the South African Competition Commission into the profitability of the sector. His role included drafting independent reports and overseeing supporting financial analysis of both economic profitability and the cost of capital.

Separately, Mark also supported a major private medical insurer in the course of an investigation into private healthcare by the Competition Commission in the UK. His work included producing a report for the client analysing the evidence regarding local barriers to entry and producing guidance for the clients' businesses practices based on the Commissions' final conclusions and remedies.

Postal regulation: Advice to Royal Mail in connection with the sector regulator's review of its regulatory framework

Drafted submissions to the regulator on how the regulator should assess and regulate the relevant part of the client's business. This included how the regulator should assess profitability and measure and monitor financeability. The submission encompassed both a theoretical discussion of the appropriate regulatory approach as well as an empirical assessment based on research into the regulation of equivalent businesses in other countries.

Water regulation: Financial analysis on behalf of the UK sector regulator to support its final price control for the period from 2015 to 2020

Undertook financial analysis and drafted a report advising the regulator's board on the implications for measures of financeability of regulated companies of different possible allowed rates of return. Also prepared a report critically reviewing the support for the cost of capital assumptions in companies' business plans, included reviewing details submissions from companies' economic advisors.

Secondment: Economic Advisor to the UK Office of Fair Trading on a market study into the supply of ICT to the UK public sector

The study investigated whether there was evidence of individual or collective dominance by any large suppliers in the sector, whether or not competition was functioning effectively in the interests of buyers and the extent to which this was due to supplier conduct. Mark's role included: drafting chapter of final public report the extent of supplier market power; leading engagement meetings with third parties, analysing submissions from parties and other evidence; and managing the work of junior analysts.

State aid: Report to major public service broadcaster on simplifying its compliance with State aid and Competition law

The report proposed options for change by identifying areas in which the organisation was substantially exceeding legal requirements on separation. Mark undertook research on regulatory precedent, interviews with members of the organisation's senior management and drafted the report which proposed options that were practical and consistent with the organisation's wider objectives.

Competition investigation: advice to a major financial audit firm in connection with the UK Competition Commission market investigation into the large company audits

Worked extensively on the quantitative financial and economic analysis and drafting of submissions to the Commission on a range of issues. This included preparing an econometric model of audit fees and associated report to submit to the Commission on the price impact of switching audit provider as well as modelling the financial impact of possible remedies for the client's board.

Damages assessments in commercial disputes

Damages claimed by an asset management business for breach of contract

In the context of an arbitration under the Arbitration Act 1996 as well as UK High Court proceedings, assisted in preparing a calculation of Claimant's lost fee income and incremental costs jointly-agreed with Defendant's expert. Also assisted in preparing an expert report on "negotiation damages".

Defence to a claim for damages against an aircraft manufacturer

In the context of an ICC arbitration, assisted in drafting an expert report critically reviewing the Claimant's particularisation of damages suffered as a result of Defendant's alleged failure to provide financial support to a leasing business.

Defence to counterclaim for damages by an electronics manufacturer for breach of SPA

In the context of an ICC arbitration, assisted in preparing an expert report critically reviewing the Claimant's quantification of its damages in its counterclaim as a consequence of Defendant's alleged breaches.

Defence to claim for damages against an infant formula milk producer

In the context of an UNCITRAL arbitration, assisted in drafting an expert report assessing the relative reputational impact of certain key events on Claimant's business, using traditional and social media analytics.

Damages claimed by a technology start-up for breach of SPA

For the purposes of settlement negotiations, assisted in preparing a preliminary assessment of the loss suffered by a start-up technology business as a consequence of an investor's alleged failure to complete a signed SPA.

Claim for damages by investors in an emerging market telecoms service provider

For the purposes of settlement negotiations, assisted in preparing a preliminary assessment of the loss suffered by investors as a consequence of the controlling party's alleged failure to provide compensation in accordance with Claimants' agreed beneficial interest.

Publications

**Competition Law Insight, April 2015:
Excessive prices and profitability - What is a fair profit?**

The article, co-authored with colleagues from FTI Consulting, explores some of the hurdles that must be overcome to produce a quantitative analysis that is sufficiently robust to support a competition authority's finding of excessive pricing.

Appendix 2

Sources of information

A2.1 In preparing this report, we have relied on the following sources of information:

- The WEEE Regulations, December 2013;
- BIS, WEEE Regulations, Government Guidance Notes, March 2014;
- 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;
- BIS Feedback received from prior submissions;
- BIS Guidance: Business to consumer (B2C) and business to business (B2B) EEE and WEEE: how to correctly identify, February 2015; and
- DEFRA, Guidance on submitting proposals for a WEEE Compliance Fee Methodology, July 2016.

A2.2 We have also discussed our work with the following individuals and organisations, on a confidential basis:

- a working group of JTA members, including producers;
- three individual PCSs that work with the JTA: Recolight, Repic and ERP; and
- Waste and Recycling Team, DEFRA.

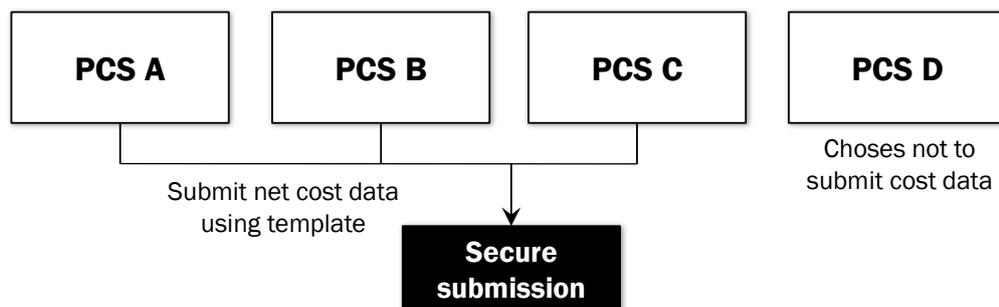
Appendix 3 Illustrative calculation of the Fee

Introduction

- A3.1 In this appendix, we provide an illustrative example of how the Fee would be calculated using the revised methodology set out in the report 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 generated for illustrative purposes only and 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. 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
Total WEEE collected (tonnes)	100	115	20	360
WEEE collected from LA-DCFs (tonnes)	70	50	0	300
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 verify the data submitted. The Administrator must be confident that no misstated data has been submitted.

Step 3 – Calculation of weighted average net cost of collection from LA-DCFs

A3.8 The Administrator will then calculate the weighted average net cost per tonne of collection from LA-DCFs 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 from LA-DCFs (tonnes)	70	50	0	n/a	120
Net cost of LA-DCF collections (£)	£8,400	£5,000	£0	n/a	£13,400
Net cost per tonne (£/t)	£120.00	£100.00	n/a	n/a	£111.67

A3.9 Relevant data from all PCSs which has been audited and validated is used to calculate the Fee. In this example, data from PCSs A and B is used to calculate the fee that will be paid by PCSs A and C.

Step 4 – Determination of which escalator applies to the WEEE stream

A3.10 To determine whether the Normal Escalator or the Surplus Escalator applies, the Administrator will calculate whether or not aggregate collections have exceeded aggregate targets for the given stream by more than the threshold proportion (1.5%).

PCS	A	B	C	D	Total
Total WEEE collected (tonnes)	100	115	20	360	595
Target (tonnes)	120	110	120	300	650

A3.11 Applying the escalator threshold calculation set out in Section 6 shows that the Normal Escalator will apply in this WEEE stream: $(595/650) - 1 = - 8.5\%$.

Step 5 – Calculation of Fee for each PCS

A3.12 Finally, the Administrator will calculate the Fee for each PCS using the appropriate escalator formula as set out in Section 6. Example calculations for PCSs A and C are shown below.

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

$$\text{A: } f_1 = \pounds 111.67 \times (120 - 100) \times \left(1 + \left(\frac{120 - 100}{120} \right)^2 \right) = \pounds 2,295 \equiv \pounds 114.77 \text{ per tonne}$$

$$\text{C: } f_1 = \pounds 111.67 \times (120 - 20) \times \left(1 + \left(\frac{120 - 20}{120} \right)^2 \right) = \pounds 18,291 \equiv \pounds 189.21 \text{ per tonne}$$

A3.13 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, whereas PCS C collected 17% of its target.

A3.14 Both PCSs pay a Fee in excess of the weighted average cost of collection (£111.67 per tonne). Both would be expected to 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)

Private and Business Confidential

PCS NAME

SHORTFALL / SURPLUS

Target
WEEE collection
target

Evidence
Total WEEE
Evidence
received

Unit

tonnes

tonnes

1 January to 31 December 2016 - For submission on or before 28 February 2017

- (1) Large Household Appliances
- (2) Small Mixed WEEE
- (3) Display Equipment
- (4) Cooling Appliances Containing Refrigerants
- (5) Lamps
- (6) Photovoltaics

**NET COST OF DIRECTLY COLLECTED WEEE
FROM LA-DCFs**

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 2016 - For submission on or before 28 February 2017

- (1) Large Household Appliances
- (2) Small Mixed WEEE
- (3) Display Equipment
- (4) Cooling Appliances Containing Refrigerants
- (5) Lamps
- (6) Photovoltaics

The data above includes related party transactions as described in paragraph A4.16 of the instructions

Yes/No (delete as appropriate)

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 from LA-DCFs.
- 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 from LA-DCFs

- A4.12 Please enter the number of tonnes of household WEEE in each stream directly collected from LA-DCFs in the period specified.
- 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, from LA-DCFs. Direct costs may include:
- (1) transport costs;
 - (2) container costs (e.g. rental 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 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 indicate on the template if data submitted includes any related party transactions. If data submitted does include any related party transactions, please provide further explanation to the Administrator with your submission. 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 WEEE collected directly from LA-DCFs. 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 review and confirm the data provided in the spreadsheet and sign an Agreed Upon Procedure report. The Registered Auditor should undertake this engagement in accordance with the International Standard on Related Services (ISRSs), applicable to Agreed Upon Procedures engagements.
- A5.2 The Registered Auditor should undertake this review and report on it in the form specified below.

Pro-forma Agreed Upon Procedures report of Registered Auditor

Report to the Directors of [Example PCS]

We have performed the procedures agreed with you and set out below with respect to the information included in the WEEE Compliance Fee data collection form completed for submission to the WEEE Compliance Fee Administrator. Our engagement was undertaken in accordance with the International Standard on Related Services 4400 applicable to agreed-upon procedures engagements. The procedures were performed solely to assist you in the submission of your WEEE Compliance Fee data collection form, in accordance with its related instructions for completion, and are as follows:

- *We have agreed the scheme's household WEEE collection target by collection stream to the final statement issued by the EA to the scheme for the 2016 compliance period.*
- *We have agreed the total household WEEE evidence received by the scheme by collection stream to the scheme's Settlement Centre 2016 compliance year summary on or after 1st February 2017.*
- *We obtained and checked the calculation of the tonnage of household WEEE directly collected by the scheme by collection stream in the 2016 compliance year and have performed the following procedures:*
 - *Re-computed and agreed the scheme's total household WEEE collections, by collection stream, to the final quarterly xml files submitted to the EA for the 2016 compliance year (1);*
 - *Reviewed how the scheme has identified household WEEE tonnage included in the scheme's quarterly xml files that has not been directly collected by the scheme (2);*
 - *Re-computed and agreed that the tonnage of directly collected WEEE (3), by collection stream, inserted in the Compliance Fee data*

collection form excludes WEEE not directly collected by the scheme (3 = 1 - 2).

- We have obtained and checked the calculation of the net cost of WEEE directly collected by the scheme in the 2016 compliance year and have performed the following procedures:
 - Re-computed and agreed the scheme's costs by collection stream in relation to WEEE directly collected by the scheme in the 2016 compliance year (4) have been properly extracted from the company's accounting records for that period;
 - Reviewed how the scheme has ensured the cost information extracted meets the criteria set out in the Instructions for completion of Compliance Fee data collection form, or if not, that any such costs are identified and excluded (5);
 - Where the cost information has been extracted from unaudited accounts we have reviewed how the scheme has ensured all relevant costs in relation to WEEE directly collected by the scheme in the 2016 compliance year have been included in the company's accounting records;
 - Re-computed and agreed that the costs included in the Compliance Fee data collection form (6) exclude costs that do not meet the criteria set out in the Instructions for completion of Compliance Fee data collection form (6 = 4 - 5).
- We have reviewed the statement of related party transactions included in the scheme's Compliance Fee data collection form declaration to confirm relevant related party arrangements have been disclosed.

We report our findings as below:

With respect to item 1 we found

With respect to item 2 we found

With respect to item 3 we found

With respect to item 4 we found

With respect to item 5 we found

With respect to item 6 we found

Because the above procedures do not constitute either an audit or review made in accordance with International Standards on Auditing or International Standards on Review Engagements (or relevant national standards on practices), we do not express any assurance on the Compliance Fee data collection form in respect of compliance year 2015; our specific findings are set out above.

Had we performed additional procedures or had we performed an audit or review of the financial statements in accordance with International Standards on Auditing (UK and Ireland) or International Standards on Review Engagements, we might have identified other issues that would be of relevance to you.

Our report is solely for the purpose set forth in the first paragraph of this report and for your information and is not to be used for any other purpose or to be distributed to any other parties. We permit the disclosure of this report, in full only, by you to the Compliance Fee Administrator. This report relates only to the accounts and items specified above and does not extend to any financial statements of [Example PCS], taken as a whole. To the fullest extent permitted by law, we do not assume responsibility to anyone other than [Example PCS] for this report.

[Name of registered auditor]

[Date]

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.
- A6.3 No representation or warranty of any kind (whether express or implied) is given by FTI Consulting to any person (except to the JTA under the relevant terms of our engagement) as to the accuracy or completeness of this report.
- A6.4 This report is based on information available to FTI Consulting at the time of writing of this report and does not take into account any new information which becomes known to us after the date of this report. We accept no responsibility for updating this report or informing any recipient of this report of any such new information.



**Proposal to the Department of Environment,
Food and Rural Affairs**

**Operation of a WEEE Compliance Fee for the
2016 Compliance Period**

Appendix 2

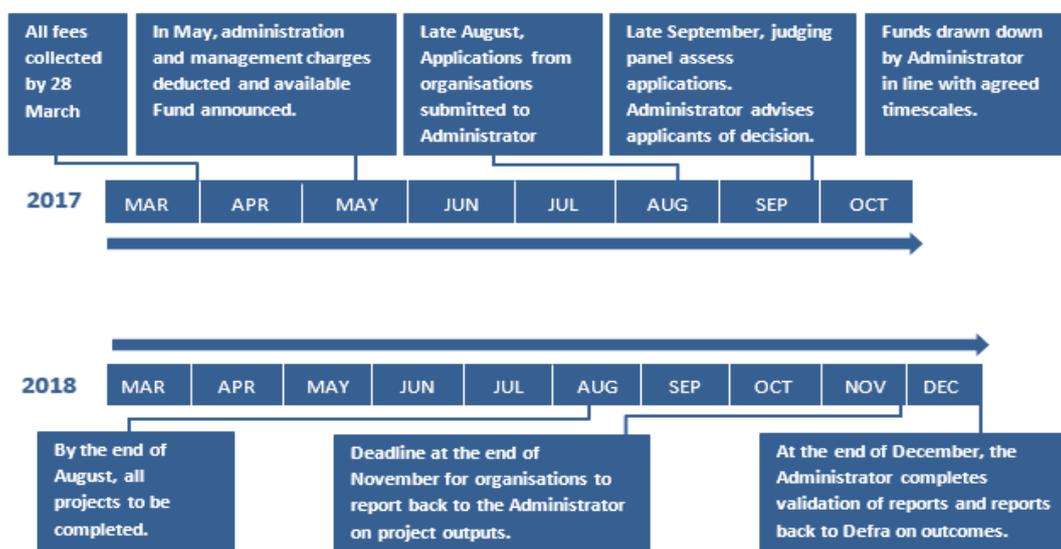
September 2016

Appendix 2

JTA Process for Disbursements from the Compliance Fee Fund in respect of the 2016 Compliance Period

Value of fund announced	<ul style="list-style-type: none">• Defra announce the value of funds available in respect of the 2016 compliance period in May 2017• Depending on the value of the fund, an appropriate level of awareness raising will be undertaken
Organisations make applications for funding from the Fund	<ul style="list-style-type: none">• Organisations make applications for funds to support projects to increase collection, recycling and re-use or other initiatives to assist the UK to meet its obligations under the WEEE Directive. A standard template form is used.• Closing dates for applications is 31st August 2017, allowing up to 4 months for organisations to make their submission• The Administrator will check each application for completeness and clarity and submit them to the Panel
Judging Panel assess applications	<ul style="list-style-type: none">• An independent Judging Panel, which is representative of the various parties involved, meets to review all applications received.• The Panel assess applications against criteria in the Defra guidance and the Application form, plus a weighted assessment of factors such as environmental benefits, innovation, sustainability and value for money• The Administrator will advise each applicant of the Panel's decision
Draw down of approved funds	<ul style="list-style-type: none">• The Administrator agrees with each organisation a timetable for the drawing down of Funds reflecting the timetable and the value of the approved projects• All Funds have to be drawn down by end of January 2018
Project completion and reporting	<ul style="list-style-type: none">• All projects to be completed by 31st August 2018• Where appropriate, organisations provide reports to the Administrator, using a standard template form, showing how the funds have been applied against the intended use• The reports are to be submitted within 3 months of the project completion and therefore at the latest by the 30th November 2018
Assessment of project evaluation reports	<ul style="list-style-type: none">• The Administrator will review the reports to validate that funds have been applied to the intended use and to assess the benefits arising from the investment• The Administrator will report to Defra regarding the outcome of the validation process

Indicative disbursement timeline: applying for finance from the Compliance Fee Fund



1. Starting point

- 1.1 In May 2017 the Administrator will confirm to Defra and JTAC the estimated value of the Compliance Fee funds available for disbursement to support WEEE improvement projects as set out in the Defra 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 2016 Compliance Period through to its close at the end of December 2018.
- 1.2 Defra will then inform interested organisations, including Local Authorities, of the available funds together with details of the process to submit ideas or applications for strategic WEEE projects. 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 adopted will be agreed with Defra and will be dependent on the size of the fund and national strategic priorities for WEEE. A combined call for funds, with the DTS, will be considered, if appropriate. For smaller funding pots, WEEE stakeholders will be encouraged to submit ideas for WEEE research studies and projects which support the delivery of the UK's national targets which will then be developed into specifications for researchers to bid for. For larger sums, funding will be made available to local authorities for WEEE improvement projects.
- 1.4 The indicative 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). 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:

- 1.4.1 Keep the application process simple, thereby reducing the administrative burden of making an application to a reasonable and proportionate level.
- 1.4.2 Promote an appropriate level of awareness of any Compliance Fee Fund that is available.
- 1.4.3 Low value applications should require a lower level of detail than higher value applications.
- 1.4.4 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 Defra Guidance of 2016.
- 2.2 The Administrator will provide a standard template application form for applicant organisations to complete and submit to the Administrator. If the Secretary of State for Defra selects the JTA 2016 Proposal, the final form of the application form will be agreed with Defra as part of the detailed discussions about the 2016 disbursement process.
- 2.3 Applications will be made either by email or post (choice of the applying organisation) using a standard template form.

2.4 **Proposed timetable for the process**

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

May 2017: The nature of projects supported by the Fund is agreed with Defra, the estimated amount of Compliance Fee funds available for disbursement will be announced by Defra and an appropriate level of awareness-raising of the Fund commences. This level will be proportionate to the amount of funds available.

End August 2017: The closing date for applications from applicant organisations. This provides a minimum 3 month time window for applications to be submitted and allows time for additional stakeholder engagement if the funds will be directed to strategic research.

End September 2017: An Independent Judging Panel (chaired by Defra) 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 2018: 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 2018: All projects to be completed, with funds spent on the projects proposed in the application approved by the Judging Panel. If WEEE research projects have been funded, the projects are made publicly available.

End November 2018: If WEEE improvement projects have been funded, applicants of approved projects to must provide a report to the Administrator showing how the funds have been spent in relation to the intended use by the end of November.

End December 2018: If WEEE improvement projects have been funded, 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 Defra. In the unlikely event of the grant/funds having been spent other than on the intended use the Administrator will report this to Defra.

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 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 2018.
- 3.4 If funds have been allocated to WEEE improvement projects, 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 for WEEE improvement projects must include clear measurable targets and performance indicators to ensure 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. For WEEE strategic research, the applicant must outline how the work will deliver benefits to the UK WEEE system.
- 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 the 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 Where applications are submitted to encourage increased volumes of separately collected household WEEE and increased recycling in line with Best Available Treatment, Recovery and Recycling Techniques

(BATRRT) requirements and legitimate re-use the form must include sufficient information to demonstrate that;

- All volumes of separately collected WEEE will be treated at AATF's in line with BATRRT.
- 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, novel research or a significant expansion of an existing activity.
- Degree to which project shows innovation and will inform best practice. Where, appropriate, 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 benefits after the project completion.
- Overall value for money and environmental impact and benefits of the proposal.

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 Defra) 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 Defra. It is proposed that this panel include representatives from local authorities, Defra, 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.

4.6 The Administrator will report to Defra periodically as to progress of the draw down of the funds.

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

5.1 If funding has been allocated for WEEE improvement projects, 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 Defra 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 Defra 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 2016 compliance period, the Administrator will advise Defra and JTAC of that outcome and the amount of money unallocated.

6.2 The Administrator will liaise with Defra 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 2017 compliance period, etc.

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

7.1 This JTA 2016 Proposal sets out a standalone disbursement process. For the 2014 Compliance Fee disbursement process, with the support of Defra, 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 2016 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.



**Proposal to the Department of Environment,
Food and Rural Affairs**

**Operation of a WEEE Compliance Fee for the
2016 Compliance Period**

Appendix 3

September 2016

Appendix 3

How the JTA 2016 Compliance Fee Proposal addresses the assessment criteria in the DEFRA 2016 Guidance for submitting Compliance Fee Proposals

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

Defra criteria	JTA CF proposal summary evidence of compliance	Evidence ref.
<p>a) 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>The JTA proposal sets out the methodology for calculation as follows:</p> <ul style="list-style-type: none"> • Uses the methodology developed by FTI Consulting in 2014, amended to reflect their analysis of the current WEEE market. • Sets out the Compliance Fee calculation, confirming this will be by stream, the nature and sources of the cost data to be used and escalators to be applied. • Explains changes made to the methodology used in the 2015 JTA proposal. • Explains how the selected methodology encourages schemes to take all reasonable steps to meet their collection target without recourse to the Compliance Fee. 	<p>JTA Proposal section 3.1</p> <p>JTA Proposal section 3.3.2, full detail in section 6 of FTI Report</p> <p>Appendix 5</p> <p>JTA Proposal section 2.1.5, full details in section 6 of FTI Report</p>
<p>b) Be stream specific by taking into account the different costs associated with the collection, treatment, recovery and environmentally sound disposal of each of the</p>	<p>The JTA Proposal accounts for the different costs associated with the 6 collection streams as follows:</p> <ul style="list-style-type: none"> • Confirms the 2016 Compliance Fee is calculated separately for each collection stream and explains which costs and PCS data is included in the Compliance Fee calculation. 	<p>JTA Proposal sections 2.1, and 3.3.2, full details in section 6 of FTI Report</p>

<p>6 WEEE 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. Proposals may consider circumstances where a negligible or zero fee might be appropriate;</p>	<ul style="list-style-type: none"> • Explains that if from the cost data submitted, the fee is calculated as zero, or a positive value, then the Compliance Fee will be set at zero. • Explains how the Administrator will calculate the Compliance Fee for a stream if no PCS cost data is submitted. 	<p>JTA Proposal section 2.1.7</p> <p>JTA Proposal section 3.3.2.5</p>
<p>c) Provide robust economic analysis in support of the proposed methodology and its likely impacts on the stability of the household WEEE collection system.</p>	<p>The JTA Proposal provides robust economic analysis in support of the proposed methodology and its likely impact on the stability of the household WEEE collection system as follows:</p> <ul style="list-style-type: none"> • Contains an updated economic analysis from FTI Consulting LLP (FTI), a leading independent economics consultancy. FTI was asked to update its economic analysis of the UK WEEE system and consider any changes required to its methodology for calculating the Compliance Fee. The FTI report provides an analysis of alternative proposals, the likely impacts of which are assessed against specified criteria, and provides a rationale for the proposed methodology. • The JTA's 2016 Compliance Fee proposal is based on the recommendations of FTI. 	<p>FTI Report for JTA (included as Appendix 1)</p> <p>JTA Proposal section 3.1</p>

2. Proposed administration of the fee should:

<p>a) 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>	<p>The JTA Proposal describes how the overhead costs will be met, and contingencies for a situation of minimal or zero take-up as follows:</p> <ul style="list-style-type: none"> • Explains how the overhead cost of calculating, setting up and administering the Compliance Fee will be deducted from the administration fees and Compliance Fee payments received from PCSs using the fee. • Sets out the governance processes adopted by JTAC to manage overhead costs. • Confirms that JTAC will meet any shortfall between payments received from PCS and the overhead costs. • Confirms that only third party costs incurred by JTAC, most of which are costs for the Administrator services, would be charged against the Compliance Fee. Costs relating to support provided by JTA participants are borne by those participants. 	<p>JTA Proposal sections 3.3.2.10 and 5</p> <p>JTA Proposal sections 5 and 6</p> <p>JTA Proposal section 5</p> <p>JTA Proposal section 5</p>
<p>b) 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>	<p>The JTA Proposal describes the mechanism as follows:</p> <ul style="list-style-type: none"> • Confirms the Compliance Fee mechanism will be operated by Mazars as independent Administrator. • Explains the process PCS must follow if they wish to use the fee, including a detailed timeline and process flow. • Provides details of the cost data template that will be used and how cost should be determined. • Sets out the requirements for PCS to accompany its cost data with a report from a Registered Auditor and provides a pro-forma for this report. 	<p>JTA Proposal section 3.2</p> <p>JTA Proposal sections 3.3.1 and 3.3.2</p> <p>FTI Report section 6 and Appendix 4</p> <p>JTA Proposal section 3.3.2.3, FTI Report, Appendices 4 and 5</p>

	<ul style="list-style-type: none"> • Explains how the Administrator will review and validate information received. • Sets out the governance arrangements established by the JTA to ensure PCS information is kept commercially confidential. 	<p>JTA Proposal section 3.3.2.4, full detail in FTI Report, section 6</p> <p>JTA Proposal sections 3.3.2.1, 3.5 and 6</p>
<p>c) 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>The JTA's proposal details the mechanism PCSs will use to pay the fee, the measures the JTA will put in place to ensure declarations of payments by PCS are reliable and how confidentiality is maintained are outlined below:</p> <ul style="list-style-type: none"> • Sets out the process by which the Administrator will notify PCS of the administration and compliance fees payable. • Confirms that PCS will make payments into a dedicated 2016 Compliance Fee client bank account and the financial governance arrangements in place regarding this account. • Explains the use of a Compliance Fee Payment Certificate (CFPC) to confirm the information provided by each PCS and the tonnage for which the Compliance Fee has been paid (by stream), excluding the value of the fees paid to protect commercial confidentiality. • Explains how the performance of the Administrator will be managed by JTAC to ensure the JTA will not have access to commercially confidential information and the confidentiality requirements in the Administrator's contract. 	<p>JTA Proposal sections 2.2.4 and 3.3.2.9</p> <p>JTA Proposal sections 2.2.4 and 3.3.2.10</p> <p>JTA Proposal section 3.3.2.10</p> <p>JTA Proposal section 6</p>
<p>d) Describe the mechanism for ensuring the environment agencies receive necessary evidence that an appropriate compliance fee has been paid by PCSs.</p>	<p>The JTA's proposal details the mechanism for ensuring the environment agencies will receive evidence that an appropriate Compliance Fee has been paid by PCSs as follows:</p> <ul style="list-style-type: none"> • Explains the use of a Compliance Fee Payment Certificate (CFPC) to confirm the information provided by each PCS and the tonnage for which the Compliance Fee has been paid by collection stream. The PCS will submit the CFPC to the relevant environment agency with its Declaration of Compliance. 	<p>JTA Proposal section 3.3.2.10</p>

<p>The agencies must be able to recognise, when accepting a Declaration of Compliance from a PCS, that it is comprised of WEEE evidence and payment of a compliance fee. Validation of payment of the compliance fee must not place significant additional burdens on the agencies;</p>	<ul style="list-style-type: none"> • Explains how the Administrator will send a summary to the applicable environment agency confirming which PCSs have used the Compliance Fee for which streams, and confirm the tonnes for which the Compliance Fee has been paid and the PCS target in the relevant stream. The agencies can validate CFPC's submitted by PCSs with their Declaration of Compliance against this summary. • Explains the arrangements are the same as in the successfully operated 2014 and 2015 Compliance Fee mechanisms. The JTA believes these were acceptable to the environment agencies and did not place significant additional burdens on them. 	<p>JTA Proposal section 3.3.2.11</p> <p>JTA Proposal section 3.3.2.13</p>
<p>e) Consider the impact of and comply with other relevant law, for example Competition Law;</p>	<p>The JTA's proposal considers the impact of and compliance with other relevant law as follows:</p> <p>In General:</p> <ul style="list-style-type: none"> • Explains the JTA proposal is designed to ensure that the process is open and transparent and readily accessible on an equal basis to all relevant organisations that wish to use it. • Explains the reason for appointing an independent Administrator who is regulated in the conduct of its activities and has sufficient resources available to manage potential conflicts of interest. • Maintains how segregation of roles will be achieved in the operation of the Compliance Fee mechanism. 	<p>JTA Proposal, section 6.1</p> <p>JTA Proposal, sections 4.2, 6.4, 6.6</p> <p>JTA Proposal sections 3.5.2 and 6</p>
	<p>JTA and JTAC:</p> <ul style="list-style-type: none"> • Explains the governance process established to ensure neither the JTA nor JTAC will have any involvement in the Compliance Fee administration and hence no access to commercially confidential information. • Confirms the robust selection process undertaken for the role of Independent Compliance Fee Administrator. 	<p>JTA Proposal sections 1.4, 2.4.2, 3.2 and 6</p> <p>JTA Proposal section 4</p>

	<p>Compliance Fee Administrator (Mazars):</p> <ul style="list-style-type: none"> • Explains how the proposed Administrator will maintain segregation of duties, confidentiality of information and manage potential conflicts of interest. • Explains the Administrator is principally regulated by the ICAEW and bound by its code of conduct, it has also demonstrated its professionalism and integrity in operating the 2014 and 2015 Compliance Fee mechanisms. 	<p>JTA Proposal sections 3.3.2.1, 4.5</p> <p>JTA Proposal sections 4.7, 6.4</p>
<p>f) Consider sound contingency plans.</p>	<p>The JTA's proposal considers sound contingency plans as follows:</p> <ul style="list-style-type: none"> • Sets out how the Administrator will seek cost data to calculate a Compliance Fee in the event that cost data is not submitted for a stream for which a fee is required. • Proposes the appointment of an Administrator who has the expertise and resources to respond to any issues arising. The Administrator has a proven track record in successfully operating the 2014 and 2015 Compliance Fee mechanisms. • Sets out what will happen if amounts paid by PCSs will not cover the overhead costs of running the Compliance Fee mechanism. • Explains what will happen if the amount available for disbursement after costs have been deducted is too low to justify a call for funding applications. • Provides flexibility in the funds disbursement process if circumstances require it, for instance if DTS funds are also available for disbursement. 	<p>JTA Proposal section 3.3.2.5</p> <p>JTA Proposal section 4</p> <p>JTA Proposal section 5</p> <p>Process for Disbursement of Funds Appendix 2</p> <p>JTA Proposal section 3.4.1.8 and Process for Disbursement of Funds Appendix 2</p>

3. Proposed methodology for dispersal of funds should:

<p>a) 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's proposal sets out how payments received will establish a fund from which disbursement will be made and costs of administering the fee will be recovered, as follows:</p> <ul style="list-style-type: none"> • Explains that payments by PCSs will be paid into a 2016 Compliance Fee Fund, managed by the Administrator, through a separate client bank account. • Explains the separate administration charge that will be levied on PCSs who miss their target by more than 10%. This will be added to the 2016 Compliance Fee Fund. • Explains the process for calculating the costs of administering the fund and the governance process in place for managing overheads. • Explains how the costs of administering the fund will be charged against the payments received and that all the remaining funds, after estimating any further overhead costs to be incurred until the completion of the disbursement process, will be made available for disbursement to organisations in accordance with specified criteria. 	<p>JTA Proposal sections 2.2.4 and 3.3.2.10</p> <p>JTA Proposal section 3.3.2.8</p> <p>JTA Proposal sections 5 and 6</p> <p>JTA Proposal section 2.3.2</p>
<p>b) Show details of the mechanism for the dispersal of funds collected. This should include proposals of how the fund should be utilised. These could for example seek to support higher levels of collection, recycling and legitimate re-use of WEEE or other initiatives designed to</p>	<p>The JTA Proposal describes the mechanism for the dispersal of funds collected as follows:</p> <ul style="list-style-type: none"> • Sets out the process for organisations to make applications for funding which will be considered by an independent judging panel. This includes a timetable and information flowchart. • Specifies the criteria by which applications will be judged and required to meet the criteria set out in the Defra July 2016 Guidance. 	<p>JTA Proposal section 3.4 and Process for Disbursement of Funds Appendix 2</p> <p>JTA Proposal section 3.4.1.3 and Appendix 2</p>

<p>assist the UK to meet its obligations under the WEEE Directive. This must address a range of scenarios of funding level and appropriate dispersal methodologies;</p>	<ul style="list-style-type: none"> • Sets out a standalone disbursement process, however offers a flexible approach, for instance if the DTS has funds available for disbursement, the Fund available is too small to justify a full application process, or if surplus funds are available at the end of a judging process. • Proposes a standard template that will be used by organisations applying for funding, which will ensure all applications are judged fairly. • Sets out the process by which successful organisations will draw down funds in consultation with the Administrator. 	<p>JTA Proposal sections 3.4.1.7 and 3.4.1.8 and Process for Disbursement of Funds Appendix 2</p> <p>JTA Proposal section 3.4.1.2 and Process for Disbursement of Funds Appendix 2</p> <p>JTA Proposal section 3.4.1.4</p>
<p>c) 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>The JTA Proposal describes the validation process for projects funded as follows:</p> <ul style="list-style-type: none"> • Requires successful applicants to provide a written report. • Specifies the review process the Administrator will carry out to validate the expenditure against the intended use, including reporting on this to Defra. 	<p>JTA Proposal section 3.4.1.5 and Process for Disbursement of Funds Appendix 2</p> <p>JTA Proposal section 3.4.1.6 and Process for Disbursement of Funds Appendix 2</p>

<p>d) Set out the governance arrangements for the receipt and disbursement of any compliance fees paid;</p>	<p>The JTA's proposal describes the governance arrangements in place regarding Compliance Fee payments as follows:</p> <ul style="list-style-type: none"> • Explains the governance process established by the JTA to ensure neither it, nor JTAC has any involvement in the administration or disbursement of the Compliance Fee. • Explains how the independent Administrator will operate the 2016 Compliance Fee Mechanism, including the management of the 2016 Compliance Fee funds through a separate dedicated client bank account. • Sets out the process by which successful organisations will draw down funds in consultation with the Administrator. 	<p>JTA Proposal section 6</p> <p>JTA Proposal section 4.5.1</p> <p>JTA Proposal section 3.4.1.4</p>
<p>e) Provide evidence of the suitability of the proposed operator that will administer the Compliance Fee Process.</p>	<p>The JTA's proposal provides the following evidence of the suitability of the selected Administrator:</p> <ul style="list-style-type: none"> • Explains the robust selection process undertaken for choosing the Administrator. • Explains the suitability of the chosen Administrator, who has successfully operated the 2014 and 2015 Compliance Fee Mechanisms. 	<p>JTA Proposal sections 4.2 and 4.3</p> <p>JTA Proposal sections 4.4 to 4.8</p>

4. Proposed timetable for implementation and operation should:

<p>a) Provide a realistic and comprehensive plan for implementation and operation;</p>	<p>The JTA's proposal provides a realistic and comprehensive plan for implementation and operation of the 2016 compliance fee mechanism as follows:</p> <ul style="list-style-type: none"> • Provides flow diagrams and timelines which explain the high level implementation and operation of both the Compliance Fee calculation and payment and the fund disbursement process. These are based upon the successfully operated 2014 and 2015 mechanisms. 	<p>JTA Proposal sections 3.3.1 and 3.4</p>
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	<ul style="list-style-type: none"> Further detail on each step in the process flow is provided. 	JTA Proposal sections 3.3.2, 3.4.1 and Process for Disbursement of Funds Appendix 2
b) Show a clear process for staffing the proposals;	<p>The JTA Proposal provides the following evidence that there is a clear process for staffing the proposals:</p> <ul style="list-style-type: none"> Describes the resources to be provided by the Administrator and how they will be utilised in the delivery of the services, including how fluctuations in activity will be managed. Mazars have a proven track record in this regard having successfully operating the 2014 and 2015 Compliance Fee mechanisms. 	JTA Proposal sections 4.4, 4.5.1, 4.6 and 4.7
c) Show a clear process for developing and implementing the IT systems;	<p>The JTA proposal provides information on the process for developing and implementing the IT systems as follows:</p> <ul style="list-style-type: none"> Explains the system the Administrator will use to operate the Compliance Fee mechanism and the rationale for this. These systems were used in the successful 2014 and 2015 Compliance Fee processes. Provides the templates to be used by the Administrator for obtaining cost data and other relevant information from PCS and for organisations applying for funding. Sets out the governance arrangements the Administrator has in place regarding its internal IT systems. Explains the options available to the Administrator for future development of IT systems should this become appropriate. 	<p>JTA Proposal sections 4.5.4, and 3.4.1.2</p> <p>Appendix 4 of FTI Report, JTA Proposal Appendix 4</p> <p>JTA Proposal section 4.5.4</p> <p>JTA Proposal sections 3.4.1.2 and 4.5.4</p>

<p>d) Demonstrate an understanding of project dependencies;</p>	<p>The JTA Proposal demonstrates an understanding of project dependencies, as outlined below:</p> <ul style="list-style-type: none"> • Provides process flow charts and timelines to highlight essential tasks and summarises time critical information flows. • Explains the appointment of an independent Administrator who has sufficient resources available to manage fluctuations in activity levels. • Sets out a detailed disbursement process, however, maintains sufficient flexibility to manage changes where agreed with Defra. 	<p>JTA Proposal sections 3.3.1 and 3.4, Appendix 2</p> <p>JTA Proposal section 4</p> <p>JTA Proposal sections 2.3.3, 2.3.5 and 3.4.1.8</p>
<p>e) Have appropriate contingency plans in place.</p>	<p>The JTA Proposal demonstrates contingency planning in the following areas:</p> <ul style="list-style-type: none"> • Explains the appointment of an independent Administrator who can call on additional resources should activity levels require this or to manage unexpected activities such as potential conflicts of interest. • Explains that confidential oversight reporting by the Administrator can be provided to Defra, if required by Defra. 	<p>JTA Proposal section 4.6</p> <p>JTA Proposal section 6.5</p>

5 Experience of proposer and proposed operator should demonstrate:

<p>a) A proven track record of financial probity combined with practical experience of working in a regulatory environment;</p>	<p>In relation to the JTA's selection of the Administrator as an independent organisation the proposal:</p> <p>With regards to the proposer:</p> <ul style="list-style-type: none"> • Confirms the governance process the JTA has established to ensure neither the JTA, JTAC, nor any of their members can benefit financially from the scheme, nor influence any awarding of funds/grants from it (other than as one of the judging panel if so appointed by Defra) and how it would meet the costs of the Administrator in the event there were insufficient funds to cover these. 	<p>JTA Proposal section 6</p>
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	<ul style="list-style-type: none"> • Explains the organisations represented by the JTA,how it was formed to represent their interests in the regulatory environment of producer responsibility and sets out their relevant practical experience. • Explains the involvement of 3 PCS who support the aims of the JTA and offer technical support and their practical experience • Explains the successful track record of the JTA in operating the 2014 and 2015 Compliance Fee mechanisms. <p>With regards to the proposed operator:</p> <ul style="list-style-type: none"> • Explains the decision to appoint an independent Administrator and the selection process undertaken. • Explains why Mazar's has been selected as the Administrator and sets out the organisation's financial probity and relevant experience. • Explains the successful track record of Mazars in operating the 2014 and 2015 Compliance Fee mechanisms. 	<p>JTA Proposal section 1</p> <p>JTA Proposal section 1.3.1</p> <p>JTA Proposal section 2</p> <p>JTA Proposal sections 4.2 and 4.3.</p> <p>JTA Proposal section 4.3, 4.4 and 4.5.2</p> <p>JTA Proposal section 3.2</p>
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<p>b) 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 by:</p> <p>With regards to the proposer:</p> <ul style="list-style-type: none"> • Provides an assessment of potential conflicts of interest and how these will be managed <p>With regards to the proposed operator:</p> <ul style="list-style-type: none"> • Explains the independent Administrator works in a regulatory environment and in accordance with professional codes of conduct and how conflicts of interest would be managed. 	<p>JTA Proposal section 6</p> <p>JTA Proposal sections 4.5.1 and 4.7</p>
<p>c) Experience of setting up systems to allow data to be submitted and processed effectively;</p>	<p>The JTA Proposal demonstrates this by:</p> <ul style="list-style-type: none"> • Explaining the appointment of Mazars as the independent Administrator of the proposed Compliance Fee mechanism and setting out the organisation's capability and experience. Mazars was the Administrator of the successful 2014 and 2015 compliance fee mechanisms. 	<p>JTA Proposal sections 3.2 and 4</p>
<p>d) Experience of developing robust proposals for Government.</p>	<p>The proposal sets out the experience of the proposer and proposed operator as follows:</p> <p>With regards to the proposer:</p> <ul style="list-style-type: none"> • Explains the nature of the JTA's membership and participating PCSs and how the organisation has worked since 2010 to represent the interests of its members with Government and its experience of developing robust proposals for Government. The JTA was the proposer of the successful 2014 and 2015 Compliance Fee mechanisms. • Explains the involvement of three PCS who offer technical support to the JTA, and their experience of developing robust proposals for Government. <p>With regards to the proposed operator:</p> <ul style="list-style-type: none"> • Explains the professional experience of Mazars who work with many different organisations, including organisations in the WEEE sector. Mazars was the appointed Administrator for the successful 2014 and 2015 compliance fee mechanisms and contributed to the development of the JTA's proposals. 	<p>JTA Proposal sections 1.3 and 2</p> <p>JTA Proposal section 1.3.1</p> <p>JTA Proposal section 4</p>

	Also relevant is the experience of FTI Consulting who has prepared the economic analysis accompanying this proposal. FTI has provided extensive information on the organisation's experience in developing proposals for Government, in particular methodology underpinning the selected 2014 and 2015 compliance fee mechanisms.	FTI Report, Appendix 1
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6. IT systems

a) Appropriate IT systems, including backup systems;	<p>The JTA Proposal demonstrates that appropriate IT systems will be implemented as follows:</p> <ul style="list-style-type: none"> • Details the way in which information will be exchanged between the Administrator, JTAC, the environment agencies and all participants, using systems that were established for the operation of the 2014 and 2015 Compliance Fee Mechanisms. • Explains the way in which the Administrator manages the confidentiality and integrity of information, including back-up and disaster recovery plans. 	<p>JTA Proposal sections 3.3, 3.4, 4.5.4 and Appendices 2 and 4</p> <p>JTA Proposal section 4.5.4</p>
b) Appropriate IT support.	<p>The JTA Proposal demonstrates appropriate IT support as follows:</p> <ul style="list-style-type: none"> • Explains the capabilities of the Administrator with regards to developing other technological solutions and the resources available to manage differing levels of transactions. 	<p>JTA Proposal sections 4.5.4 and 4.6</p>



**Proposal to the Department of Environment, Food
and Rural Affairs**

**Operation of a WEEE Compliance Fee for the 2016
Compliance Period**

Appendix 4

September 2016

Appendix 4 Example Application Form

This example assumes that disbursement will support local authority projects. The final application form, together with support Guidance Notes, if necessary, will be developed as part of detailed implementation planning if the JTA 2016 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 2017
- 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 2017 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.	
2015 and 2016 (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.	2015: 2016:
2015 and 2016 (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.	2015: 2016:
2015 and 2016 (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.	2015: 2016:

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 2018 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:	



**Proposal to the Department for Environment
Food and Rural Affairs**

**Operation of a WEEE Compliance Fee for the
2016 Compliance Period**

Appendix 5

September 2016

Appendix 5

Summary of the main changes in the JTA 2016 Compliance Fee Proposal compared to the JTA 2015 Compliance Fee Proposal.

1. The JTA considers that it is essential for the compliance fee mechanism to be kept under review and be amended as necessary in response to changes in the UK WEEE system.
2. This approach is consistent with both:
 - the legislation - which anticipates that the decision on whether to use a compliance fee - and if so which methodology to use - should be a decision made annually by government based on proposals received by 30th September in each compliance period; and
 - the 2014 report by FTI Consulting upon which the JTA's 2014, 2015 and 2016 proposals have been based, reinforced by the 2015 report from Frontier Economics, both of which emphasised the importance of a degree of uncertainty in the fee. Uncertainty encourages PCSs to focus on compliance through collection of WEEE rather than by planning to use the compliance fee as a result of the cost of so doing becoming predictable.
3. We consider both the 2014 and 2015 Compliance Fee mechanisms worked very effectively.

Since the submission of the 2015 compliance fee proposals there have been a number of significant developments in the UK WEEE system which have resulted in it not working as effectively as it should. To ensure that these were understood from an economic perspective, and to identify any changes required to the compliance fee methodology the JTA commissioned FTI Consulting to undertake a review. FTI Consulting designed the methodology underpinning the successful 2014 and 2015 Compliance Fee mechanism and were felt to be the most appropriate organisation to carry out this review (attached as Appendix 1). The key issues identified by FTI are summarised as follows:

- a. Changes in the sources of WEEE. The application of the definition of dual-use resulted in increased amounts of WEEE being recorded within the UK system. The JTA considers this was particularly significant in certain categories such as Lamps and IT & Telecoms and resulted in increased volumes of WEEE evidence being available from sources other than local authority DCFs.
- b. Changes in commodity prices. These resulted in greater volumes of WEEE coming into the formal system as it was less attractive for other economic operators to collect and recycle the material. It also generally increased the cost of treating WEEE.
- c. Variation in collection costs by source resulting in possible "cherry-picking" by PCSs. This behaviour appears to reflect an expectation that the Fee will remain fairly constant in the future and reduces the incentive for PCSs to meet their targets through collections.

- d. Taking these factors into account, local authorities found some PCSs significantly less keen to collect WEEE from their DCFs as a result of the financial liability of having evidence in excess of their members' obligations for a stream. As a result, local authorities started to make use of the provision under Regulation 34 of the WEEE Regulations to require a PCS to make a collection of WEEE from a DCF.
 - e. As a result of the increased use of Regulation 34, the WEEE Schemes Forum (WSF) has developed a collective approach to dealing with Regulation 34 requests in a way that meets the legal requirements for dealing with the request, ensures costs are competitive, shares costs and resulting WEEE evidence on a proportionate basis, maintains data confidentiality, and provides for a medium term service arrangement rather than repeated one off requests. The resulting PCS Balancing Scheme (PBS) went live on 15 August 2016.
4. In July 2016 Defra published their Guidance on submitting proposals for a WEEE Compliance Fee Methodology. The Guidance followed a similar form to that of previous years but with emphasis that the proposal should, inter alia:
- demonstrate compliance with Regulation 76 on a pass/fail test basis; and
 - Support the stability of the system.
5. FTI Consulting made recommendations for changes to the compliance fee methodology to address these issues and ensure that the proposed 2016 Compliance Fee continues to meet the guidance provided by government. Their recommendations, and the robust economic analysis on which they are based, are fully detailed in their report (attached as Appendix 1) and can be summarised as follows:
- a. The data used as the basis for calculating the fee should be derived only from the costs of collections from local authority DCFs (LA-DCF). Other sources of WEEE (eg businesses) may not be used.
 - b. The data sources used as the basis for calculating the fee should include:
 - i. data compulsorily submitted by PCSs because they choose to use the fee;
 - ii. data from PCSs that choose to voluntarily submit cost data using the same format and sign off process as required for i above.
 - c. Two alternative escalators are proposed, and which one is used by the Administrator depends on whether the stream in question is in surplus or in deficit nationally:
 - i. Where the stream is in deficit nationally the same escalator as used in 2014 and 2015 should be applied to the weighted average cost data (the "Normal" escalator).

- ii. Where the stream is in surplus by more than 1.5% of the annual national WEEE collections target a revised version of the escalator should be applied to the weighted average cost data. This escalator is intended to dis-incentivise purposeful under-collection by PCSs where this should be easily avoidable (the “Surplus” escalator).
 - d. That in the future, with more experience of the PBS and agreement of its participants, linkages between the PBS and the compliance fee methodology and Administrator could be explored. This could include, for example, the use of transaction pricing through the PBS as a source of cost data to calculate the compliance fee.
- 6. Following careful consideration of FTI's analysis, the JTA's proposed 2016 compliance fee methodology is based on the successfully implemented 2015 methodology, with some further improvements. The principal improvements are:
 - a. The data used as the basis for calculating the fee will be derived only from the costs of collections from local authority DCFs (LA-DCFs).
 - b. The data used as the basis for calculating the fee will include:
 - i. data compulsorily submitted by PCSs choosing to use the fee;
 - ii. data from PCSs that choose to voluntarily submit data using the same format and sign off process as required for 5.b.i above.
 - c. The Administrator will contact Defra to request confirmation of the national WEEE collection data reported by all PCSs for each WEEE stream (the data on the settlement centre). Defra may choose to use another data set, if they consider it is more accurate. Using this data the Administrator will determine whether a stream is in surplus or not. Where a stream is in surplus by more than 1.5% of the national WEEE collection target the Surplus Escalator will be applied to the weighted average cost per tonne to calculate the fee for that stream. Where a stream is not in surplus then the Normal Escalator will be used in the calculation of the fee per stream.
 - i. Details of the escalators are set out in section 6 of the 2016 FTI report.