



The Mobile Broadband Group

London SE15 5YA

www.mobilebroadbandgroup.com

13th February 2009

Sean Ryan
Producer Responsibility Unit, Defra
Area 6D, Ergon House
Horseferry Road
London SW1P 2AL

Dear Sean

Waste Batteries and Accumulators Regulations

Thank you for meeting members of the Mobile Broadband Group to discuss the consultation on the Waste Batteries and Accumulators Regulations. We found the meeting most informative.

We have pleasure in submitting responses to the specific questions posed in your consultation, together with some background information on the mobile device and battery market in the UK.

As we discussed at the meeting, the collection of mobile phones and their batteries is a specialised activity. Most mobile operators, in fulfilling their obligations under the WEEE Regulations use a single collection scheme, which has been very successful in refurbishing and reselling a high proportion of the mobile phones handed back to them.

Our concerns centre on the following aspects:

- Obligations to take in all portable batteries may cause cross contamination in the collection channels, causing the collection schemes to be less efficient than they are

currently. There may be a case for treating mobile batteries as a separate portable category and this should be evaluated by Defra.

- The fee structures for regulating collection schemes, as proposed, will discriminate heavily against small specialist schemes and should be reconsidered.
- The small distributor exemption should be granted to premises that are either less than 280sqm or sell less than 16kg of batteries. Small shops will not necessarily have the expertise to handle a range of different battery types safely (especially if they are damaged).

We would welcome the opportunity to discuss further any of the points raised in our response. If you require any clarifications, please do not hesitate to contact me.

Yours sincerely,

Hamish MacLeod

Hamish MacLeod
Chair, Mobile Broadband Group

BERR's Consultation Document on the Implementation of the Batteries and Accumulators and Waste Batteries and Accumulators Directive (2006/66/EC) – Waste Battery Collection and Recycling Provisions – a response from the Mobile Broadband Group

The Mobile Broadband Group (“MBG”, whose members are the UK mobile businesses of O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to respond to BERR's consultation on the UK's implementation of the Waste Batteries and Accumulators Directive.

The UK market is one of the most dynamic and competitive mobile markets in the world. There are approximately 73 million active subscriptions, representing around 1.25 phones per head of population. Annual sales of mobile handsets in the UK are estimated at around 25-30 million devices.

Mobiles devices are sold to end users through a diverse variety of distribution channels: through the mobile operators' branded stores, through large independent dealer chains such as Carphone Warehouse and Phones4U, through service providers specialising in the corporate market and through thousands of small independent high street dealers. In addition to sales through physical stores, mobile phones are sold over the Internet by mobile operators and independent dealers. The vast majority of mobile phone batteries entering the market are sold alongside a new mobile device. A very few high user customers buy spare batteries to give them additional capacity when they are away from charging facilities. Similarly, a very few batteries are supplied as replacements for batteries that go wrong but this is rare. Mobile operators do not often hold stocks of spare/replacement batteries within their stores. This is because the wide variety of phones on the market and low volumes makes it unviable to hold physical stock.

The mobile operators, under the WEEE regulations, have existing processes in place to take back and recycle mobile phones, where, under the terms of the regulations, they are deemed to be 'producers'. This generally relates to phones where they have some exclusive right to distribute in the UK and represents a small proportion of the total mobile phones sold in the UK. The mobile operators are successful in recycling the phones that are returned to them (although it should be noted that a large proportion of customers hold onto old mobile phones to keep as spares or hand down to family members). Returned phones are generally refurbished and re-sold in other markets. It is rare for these, particularly the battery, to have no further economic use.

The new regulations will mean that mobile phones that are now collected and recycled under one set of regulations (WEEE) will now be collected under two sets of regulations. Our main concern is that these new arrangements do not entail significant extra costs (for example of administration or for separating non-mobile phone waste batteries from mobile phone batteries).

Mobile operators will only be defined as 'distributors' of batteries to the extent that they sell new batteries as spares or replacements. As set out above, it is unusual for a mobile operator to hold stocks of batteries in store. It is more common for replacement batteries to be sent out from a central stock on request.

Portable Batteries

Question: What are your views on the proposed level of the small producer exemption?

The Government is proposing an exemption of 3 tonnes for a 'small' producer. In the context of mobile phones this would amount to approximately 60,000 mobile devices (assuming an indicative battery weight of about 50 grammes) with incorporated batteries. In terms of the mobile market, this would represent a producer with a very small market share. It is not expected that any of the major mobile operators would be able to benefit from the small producer exemption.

The MBG has no view as to whether it is an appropriate minimum limit, although we agree with the principle of there being a minimum limit. The 3 tonne limit should be kept under review. If it transpires that it is not an environmentally sensible limit, it should be changed.

Question: What are your views on the proposals for approval of portable Batteries Compliance Schemes?

No comments other than the MBG agrees that there should be multiple Compliance Schemes in order to keep the market competitive and costs at a reasonable level.

Question: What are your views on the proposed requirements on portable Batteries Compliance Schemes?

No comments

Question: What are your views on the provisions on publicity for consumers?

Each Compliance scheme should have the freedom to decide how much it expends on publicising its activity. If it is failing to meet targets, the scheme managers will have to decide whether increased awareness activity will be beneficial.

Question: What are your views on the proposals for the issue of evidence of portable batteries treatment and recycling?

No comments

Question: What are your views on the proposed interim targets in the draft regulations?

No comments

Question: What are your views on the proposed exemption for small distributors?

The MBG believes that the small distributor exemption should be "either/or" not "and".

Mobile operators' retail stores are generally less than 280sqm and the majority do not sell batteries separately. And even if they do now, the liabilities created by the proposed regulations could easily stop them doing so in future, which would not be in customers' interests. We do not anticipate that many stores will be liable for collecting batteries. To the extent that they are, the liability should only extend to the larger stores. Even though mobile stores would continue to be recycle phones and their batteries, it would not be justified on environmental or health and safety grounds for the smaller mobile phone stores to have the liability of collecting all kinds of batteries.

The health and safety issues are important. Handling returned batteries, particularly damaged ones, has to be exercised with care. In order for the distributors to have the necessary training, the Government should only be looking to those with appropriate scale or specialisation to act as collection points for any type of portable battery (i.e. not only mobile phone batteries).

Distributors should have the right to refuse to take in batteries that are damaged and are clearly a health hazard.

The MBG recognises that the de minimis limit will have to be kept under review and, if necessary, revised in the light of experience.

Question: What are your views on the proposal for schemes to accept batteries from economic operators and Competent Public Authorities?

No comments

Charges (Portable Batteries)

Question: Is the approach to recovering the costs of regulating schemes reasonable?

The MBG does not agree with the proposed fee structure for regulating collection schemes, particularly as the mobile operators are already collecting mobile phones with their batteries under their WEEE obligations and paying only one charge. Now there will be two administrative charges for largely the same collection activity, with the proposed cost burden falling disproportionately on the smaller, more specialist schemes.

The majority of mobile phones are collected by those that specialise in the field within schemes with a small membership. The large flat fee will discriminate heavily against such schemes, resulting in disproportionate costs being passed on to their members and thereby potentially reducing the potential for a competitive market for Compliance Schemes.

The MBG urges the Government to reconsider the fee structure, particularly for schemes that are already registered and compliant with WEEE regulations, in order to ensure a proportionate distribution of costs and a competitive market for Compliance Schemes.

Question: Is the approach to recovering the costs of regulating obligated producers of portable batteries reasonable?

As above

Questions: Are the proposed thresholds reasonable? Would it be better to distinguish between lead/acid batteries and the rest, rather than between portable, industrial and automotive batteries?

Bearing in mind the specialist nature of batteries for mobile devices and the specialist nature of the retail outlets through which they are sold, it should be possible to consider treating them as a further category. The benefits of such an approach is that there would no cross

contamination in the collection chain between mobile phone batteries and ordinary batteries, to their mutual benefit. The mobile industry has been very successful in ensuring that a very high percentage of batteries are refurbished and placed back on the market. Treating them as a separate category would be the best way of ensuring that this continued to happen.