

Retail and Online Sectors

EPA Enforcement Summary for 2018



Introduction

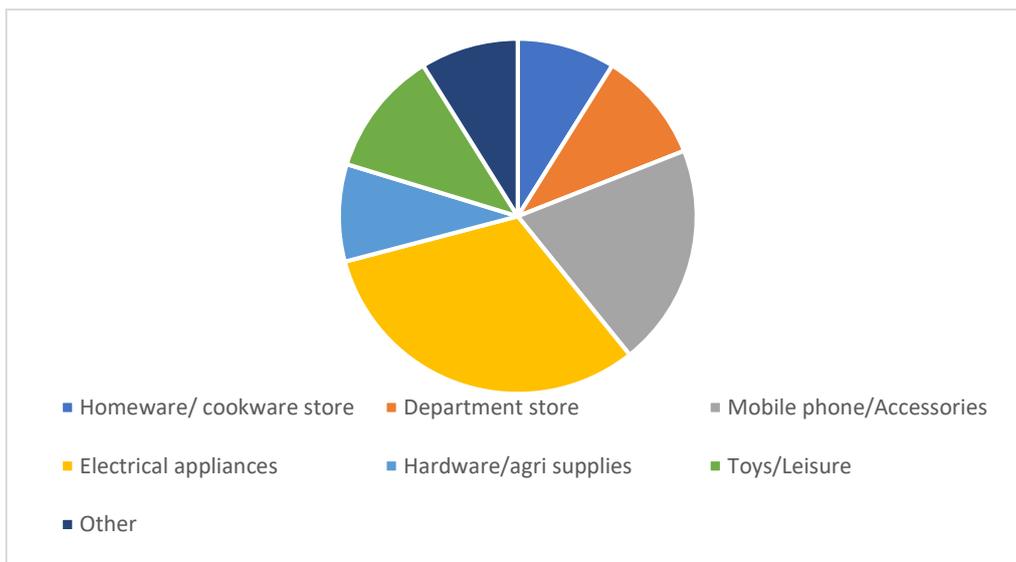
The Environmental Protection Agency’s Producer Responsibility (PR) team has a role in implementation of the Waste Electrical & Electronic Equipment (WEEE) and Batteries Regulations in Ireland.

Enforcement is a key part of the EPA’s role but the EPA also carries out other activities that help to increase compliance and raise awareness of these important and challenging waste streams. This summary provides a brief description of the enforcement that the EPA carried out during 2018 in relation to the retail and online selling (distance seller) sectors. These inspections are designed to find companies that may be importing and selling product in Ireland but are not complying with the regulations. Overall, the EPA wants to see all companies in compliance so that there is a fair and level playing-field for everyone.

Retail Inspections

There are thousands of retail outlets that sell B2C EEE products and batteries. These range from shops stocking a small range of electrical goods to the major electronics retailers. These retail outlets have obligations under the WEEE and batteries regulations. The EPA carry’s out inspections at retail outlets nationwide.

A total of 60 retail inspections were carried out in 2018 covering a range of retail sectors. The breakdown of the retail sectors that were inspected are described in the diagram below. It included an emphasis on pound shops and phone repair shops.



Breakdown of 2018 retail inspections by sector

Local authority officers were invited to accompany the EPA at the inspections. Inspections reports were issued to each retail outlet that was inspected.

The top 3 non-compliances detected at the retail inspections were as follows:

- 1. Failure to maintain proper records of WEEE take back, storage and collection.** 75 % of retailers inspected were not maintaining records as required.
- 2. Failure to display a Certificate of WEEE Retailer Registration.** 65% of retailers inspected did not have the required certificate on display.
- 3. Failure to display visible Environmental Management Costs (vEMC's).** 47% of retailers did not have the correct vEMC on display.

Distance Seller Inspections

Selling online is an example of distance selling. A distance seller competes with the retail sector and if they are supplying directly to users in Ireland from abroad will also have producer obligations under the WEEE or Batteries regulations including the requirement to register as a producer with the Producer Register Limited.

A distance seller inspection campaign comprising 80 website inspections was carried out in 2018. Of this number, 22 of the websites inspected were located outside of Ireland being mainly in the UK, including Northern Ireland.

The top three non-compliances for distance sellers were as follows:

- 1. Failure to display information on their website regarding the WEEE return and collection systems that are available to users (i.e. a statutory notice).**
- 2. Failure to display information on their website regarding WEEE take back.**
- 3. Failure to display the organisation's Producer Registration number on their website.**

Of the 22 distance sellers based outside Ireland, 21 were issued with notifications of non-compliance for not appointing an Authorised Representative (AR), as is required by the WEEE regulations. An AR is an organisation based in Ireland that takes on the distance sellers legal obligations where that distance seller has no physical presence in Ireland. Of these 21, 9 have subsequently ceased selling into Ireland and have removed all options to order from Ireland on their website. Consequently, they no longer need to appoint an AR. Two have completed registration with Producer Register Limited.

The EPA also issued formal complaints to 4 EU countries regarding 8 non-compliant distance-selling producers that are based in those countries. The EPA used its contacts in the European WEEE Enforcement Network (EWEN) to issue these complaints. Investigation of these complaints is on-going in those countries and the EPA continues to engage with all remaining non-compliant distances sellers. The remaining non-compliant distance sellers will also be the subject of a formal complaint to the authorities in their home country.

Working with local authorities

The EPA engages with local authorities on an ongoing basis to ensure effective enforcement of the WEEE and Battery Regulations. The EPA and local authorities have shared responsibility for enforcement of many retail obligations. Local authorities are therefore invited to attend the retail

inspections with the EPA inspector. This represents a good opportunity for retail inspection training for local authority officers.

Planning for 2019

Inspections have already started. The EPA plans to maintain its focus on phone-repair shops, Pound/Euro shops and trade shows in 2019. In addition, an enforcement campaign specifically targeting B2C free rider producers is currently underway nationwide. These are producers that are based in Ireland and are totally avoiding their legal obligations. Specific B2C products and sectors are being targeted. The overall targets for enforcement actions for the relevant sectors in 2019 are as follows:

Sector	Visits
Business to Consumer (B2C) producers	50
Distance sellers (websites)	60
Distributors / retailers	40

Stakeholder engagement planning for 2019 is in preparation. We will again seek to communicate strategically with various organisations (i.e. regulators, stakeholders and the regulated community).

Conclusion

Every year, a significant effort is put into organising, managing and carrying out WEEE and batteries inspections and it is considered that 2018 was a successful year. Good outcomes were achieved for inspections both in terms of the numbers of companies visited, the follow-up by the EPA on the non-compliances detected and on closing out of non-compliances. We put a much greater focus on post inspection follow-up in 2018 (i.e. working more closely with the companies to assist them in complying). This is considered to bring more quality to the enforcement effort and this approach will continue in 2019.

The EPA is now ready to issue fixed payment notices (similar to a fine). This is a very powerful new enforcement tool for the EPA. Significant time was invested in 2018 in developing procedures & templates to ensure everything is in place for the EPA to issue them when required. It is anticipated that the first FPNs will issue very soon this year.

There are thousands of organisations in the regulated community with a very wide range of sectors. Raising awareness among these companies (e.g. of their legal obligations) is a challenge as the EPA can only reach so many of them in a given year. So, communication is critical and the preference, where possible, is for face-to-face meetings as these can be particularly effective. Selected face-to-face meetings will be held with key organisations, but other efficient communications approaches will be also used.

In terms of challenges to the national system, it is considered that free-rider producers remain the most significant, particularly free-riders who are using online sales platforms. This is a challenge facing authorities and compliant companies across the EU and indeed the world. It is not a challenge that

can be tackled by any one regulatory authority or even one state. National authorities will have to work with stakeholders in other states to achieve progress on this issue. A major focus of EWEN (mentioned above) is the challenge we face from free-riding online sales. EWEN is planning a number of projects in 2019 which are related to this matter and will work closely with authorities across the EU to address this challenge.