

The Prospects for Reaching Agreement on Key E-Waste Issues in Conflict

Background

On March 8, 2006, members of the Congressional E-Waste Working Group requested the assistance of the U.S. Institute for Environmental Conflict Resolution in assessing whether mediated negotiations among stakeholders on approaches to managing electronic waste (e-waste) might be productive and help Congress develop national e-waste policy.¹ In response, Dale Keyes, Senior Program Manager at the U.S. Institute, interviewed 16 representatives of key stakeholder groups: equipment manufactures and retailers, recyclers and de-manufacturers including non-profits, trade associations, environmental and health advocacy groups, and regulators. (A list of those interviewed is attached.) The confidential interviews focused on:

- which e-waste issues are most significant,
- which issues continue to be most divisive among the major stakeholders,
- the interviewee's involvement in and perspectives on a recent attempt to forge consensus on e-waste issues – the National Electronic Product Stewardship Initiative (NEPSI),
- what changes in the last 12-15 months might make a new attempt at assisted negotiations productive, and
- if negotiations were to be re-started, what should be their focus and format and which stakeholders should participate.

Findings

We heard universal desire expressed for a national-level program to address e-waste issues, as has been reported elsewhere. What shape such a program should take elicited a range of responses. Prime among all issues is how to finance recycling efforts, with major equipment manufactures and retailers supporting various approaches. (These typically are characterized as one of two approaches – an advance recycling fee vs direct producer responsibility, but important variations on each theme have been proposed). Our focus was not on the detailed features of proposed solutions, but on the prospects for negotiating agreement on a single approach, or perhaps a suite of financing schemes for different products and circumstances.

Most of those interviewed believe that changes in the regulatory landscape over the last several months have been sufficient to motivate stakeholders to engage in a new round of negotiations and to raise the prospects for success. They noted considerable time and attention is required to lobby the various states currently considering e-waste legislation (23), and that complying with regulations in the four states with active programs creates a substantial administrative burden. Even where states have or are considering stakeholders' favored approaches, each state program typically has its own "flavor," thus requiring a unique administrative response on the part of manufacturers, retailers and recyclers.

Several interviewees also noted that state legislatures are or soon will be in recess, which may provide a window of opportunity for new negotiations. Not having to continually argue

¹ The U.S. Institute is a Federal program with the Morris K. Udall Foundation, whose mission is to help stakeholders resolve disputes over public lands, natural resources and the environment where a Federal agency or interest is involved. More information can be found at: www.ecr.gov.

bargaining positions, at least for the next few months, may encourage creative thinking about new options.

Finally, we heard that the prospects for success would be heightened if the negotiations were tightly focused and strongly mediated. Advice on who (what stakeholder groups) should be directly involved and how the negotiations should be organized was much more varied.

Recommendations

Reflecting what we heard about a desire for a national e-waste program, the key issues in conflict, a changing regulatory landscape, the pending window of opportunity, and what worked well and not so well in the NEPSI process – and drawing on our experience in mediating contentious issues of national importance; we offer the following recommendations:

1. Restart negotiations quickly in response to the narrow window of opportunity.
2. Narrow the scope to financing schemes for recycling and for computers and TVs only.
3. Limit the number of stakeholders at the table to key representatives of various types of producers and retailers; include others (trade associations, recyclers, environmental groups, non-profits, state and local governments, federal agencies) as observers and responders, who would review draft proposals from the negotiators and provide feedback.
4. Staff from relevant Congressional committees should be available as resources.
5. Use a mediator with a strong, directive style and familiarity with the issues, and specific ground rules firmly enforced to guide the negotiations.
6. Encourage other forums for addressing related issues (e.g., exportation of e-wastes, certification of recyclers, organization and support of local recycling efforts, need to ban certain wastes from landfills, expanding the scope of equipment beyond computers and TVs), perhaps in parallel with or subsequent to these negotiations. These efforts should build on work conducted as part of NEPSI and other initiatives.

We further recommend that the Congressional E-Waste Working Group convene the process. If desired, the U.S. Institute could serve as a co-convenor and could play a role in mediating the negotiations. We recognize that organizing the process will take several weeks, and urge that action be initiated quickly to find support for the effort. Ideally, negotiations should begin by late summer or early fall.

Funding for third-party assistance would have to be provided by some or all of the stakeholders. If the Working Group chooses to convene the proposed process, we could provide a cost estimate.

List of Interviewees

Mr. Tod Argobast, Director of Sustainable Business
Dell Inc.

Ms. Sarah Balog, Environmental Policy Manager, Government Affairs
Mr. Parker Brugge, Senior Director and Environmental Counsel, Government Affairs
Consumers Electronics Association

Mr. Scott Cassel, Executive Director
Product Stewardship Institute, Inc.

Mr. Rick Goss, Director of Environmental Affairs
Electronic Industries Alliance

Mr. Jay Hutchins, Federal Affairs Manager
Goodwill Industries International, Inc.

Mr. David Isaacs, Director of Government and Public Policy
Ms. Renee St. Denis, Director of America's Take-Back Program
Ms. Heather Bowman, Manager of Public Policy Strategy
Hewlett Packard Development Company, L.P.

Ms. Kate Krebs, Executive Director
National Recycling Coalition

Ms. Barbara Kyle, National Coordinator
Computer Take-Back Campaign in San Francisco

Ms. Claire Lindsay, Project Director of Extended Product Responsibility
Office of Solid Waste
U.S. Environmental Protection Agency

Mr. Marc Pearl, Executive Director
Consumer Electronics Retailers Coalition

Ms. Paula Prah, Vice President for Public Affairs
Best Buy Co., Inc.

Ms. Lynn Rubenstein, Executive Director
Northeast Recycling Council, Inc.

David Thompson, Director of Corporate Environmental Management
Panasonic Corporation of North America