An Overview of Nigeria’s Regulatory Approach

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By

Professor Olanrewaju Fagbohun, Ph.D
Nigerian Institute of Advanced Legal Studies
&
Director, Environmental Law Research Institute
E-mail: fagbohun@elri-ng.org
OUTLINE OF PRESENTATION

• Introduction;
• Nigeria and E-Waste;
• Why Is The Problem so Serious?
• What Were The Challenges?
• National Initiatives;
• Approach to Regulation;
• Key Provisions of Draft Regulations;
• Stakeholder Analysis;
• Looking Ahead.
INTRODUCTION

• Nigeria is the most populous country in Africa and accounts for approximately one-sixth of Africa’s people;

• Nigeria’s population is expected to increase to 156,269,000 by the year 2015;

• Lagos is most populous conurbation in Nigeria, and second most populous city in Africa:
  – Current population figure given by the State, 17million plus;
  – Nigeria’s most prosperous city;
  – Port of Lagos is Nigeria’s leading port, and one of the busiest in Africa.

• With growth in population, demand for consumer durables has been and will continue to escalate.
NIGERIA AND E-WASTE

- Main Sources of E-Wastes;
  - Waste electronic products from household;
  - Waste electronic products from governments, institutions and enterprises;
  - Defective electronic products (Defective Imports);
  - Used EEE (e-waste and near end of the life EEE);
  - Illegal imports

- Nigeria’s IT and Telecoms Sectors are experiencing considerable growth and are driving development in other sectors of the economy
  - New models rather than attempt to upgrade;
  - Cost of manufacturing personal computers is continually falling;
  - Importance of managing the externalities that are, and will be created.
WHY IS THE PROBLEM SERIOUS?

• Poverty has created immense opportunity and incentives for illegal trafficking of waste;

• Labour intensive activity operated mainly by small business and informal sectors with weak capacity to handle e-waste recycling and disposal;

• Offer business opportunity (economic benefits) while the environmental cost is externalized;

• Satisfies *high demand* for cheap second-hand products (in an environment where poverty is prevalent);

• Hitherto characterized by poor/lack of supervision and management on environmental protection;

• Processed by deploying the most primitive methods and very backward technology under poor environmental conditions;
  – Damage to *health* and *environment*. 
WHAT WERE THE CHALLENGES?

- Lack of national regulation regarding import rules for used electrical and electronic goods;
- Relaxed/weak/insufficient enforcement of existing related laws;
- Lack of awareness of the risks/potential harmful effects associated with e-waste, coupled with lack of technical capacity for environmentally sound management;
- Poor corporate social responsibility by the industry
  - Government is left alone to grapple with the problem;
- Lack of inadequate infrastructure for collection, recycling and recovery;
- Poor interface of the informal sector with the Regulatory Authority;
- Lack of economic alternatives to activities carried out by the informal sector.
NATIONAL INITIATIVES

• The Institutional Framework
  – Federal Ministry of Environment (*with State counter-part*);
    ✗ Policy formulation is more at this level;
  – National Environmental Standards and Regulations Enforcement Agency (NESREA), 2007 (*State Agencies like LASEPA*)
    ✗ Enforcement of environmental laws, regulations and guidelines;

• Legal Framework (National/International Laws)
  – Harmful Waste (Special Criminal Provisions) Act, 1988, prohibit the carrying, depositing and dumping of harmful waste on any land, territorial waters;
  – NESREA Act;
  – Nigeria ratified the Basel Convention in March, 1991; Amendment to the Basel Convention in May, 2004; and a signatory to Bamako Convention in December, 2008.

• Non – Legislative Initiative
NATIONAL INITIATIVES...

• NESREA held an international conference on E-waste Control in Abuja in July, 2009 (“The Abuja Platform on E-Waste Control”);

• Some of the recommendations:
  – Toxic Waste Dump Watch Programme should be established/reactivated at the Regional/Sub-regional levels, to monitor importation and dumping of near-end-of-life electrical/electronic equipment and e-wastes;
  – Governments should encourage the establishment of recycling plants with full participation of the private sector through Public – Private – Partnership (PPP);
NATIONAL INITIATIVES...

– Governments should set up and/or strengthen Regulatory Agencies at both national and local levels, for effective e-waste control;

– The relevant National Regulatory Authorities/Agencies should as a matter of urgency, come up with appropriate Regulations, Guidelines Standards, and modalities to monitor the importation and disposal of used electrical/electronic equipment;

– There is need for countries to pass legislation that will require manufacturers to “take back” or “buy back” their electronic products. The legislation should also mandate a timetable for phasing out most toxic substances in electronic products;
There is need for domestication of the Basel Convention by those countries who have not done so, for effective implementation at national, sub-regional and regional level;

There is the need for all countries to adopt and implement the Extended Producer Responsibility programme to control e-wastes at country level;

Extended Producer Responsibility with respect to e-waste should apply along the supply chain based on the life cycle approach with responsibility of the original equipment manufacturers for their products in user countries;

Regional, Sub-regional and National Action Plans on the management of e-waste should be developed/finalized by relevant Regulatory Agencies, with Stakeholder inputs from manufacturers, assemblers, importers, exporters and vendors, for prompt implementation.
WHAT HAS BEEN THE FOLLOW-UP?

• The National Toxic Dump Watch Programme (NTCWP) has been reactivated;
  – Objective among others are to halt the flow of hazardous wastes into Nigeria, enforce federal regulations to reduce dumping of wastes, and respond to calls/alerts on any suspicion at sea.
WHAT HAS BEEN THE FOLLOW-UP?...

- Registration of importers of WEEE by NESREA to control type of EEE imported;

- Increased role for NESREA at the seaports and land borders to monitor imports of hazardous waste;

- Increased networking and collaboration
  - Nigeria is a member of the Seaport Environmental Security Network (SESN) and the International Network for Environmental Compliance and Enforcement (INECE);
  - Membership of SESN and INECE has yielded positive results and assisted in interceptions and averting the dumping of toxic substances into Nigeria.

- Development of draft Regulation for the Electrical and Electronics sector.
APPROACH TO REGULATION

- Sampling Procedures (licence classification, air sampling, noise measurements etc);
  - Situation investigation
  - Assessment.

- E-waste Control (handling, registration/licensing/approval) at the different levels;

- Permits;
  - Evaluation guidance and identification guidance;

- Effluent/Emission Monitoring and Reporting;

- Enforcement Procedure;

- Offences/Penalty.
KEY PROVISIONS OF REGULATIONS

• Thrust of Regulations is to prevent and minimize pollution from all operations and ancillary activities of the electrical and electronic sector;

• Distinguished between e-waste and second hand equipment;

• It is based on life cycle approach (manufacturers, government, consumer, international organizations etc);

• Detailed product coverage;

• Facility requirements incorporate the concepts of Environmental Impact Assessment (EIA); Environmental Impact Statement (EIS); Environmental Audit Report (EAR) and Environmental Management Plan (EMP);

• Rest on the principle of 5Rs (*Reduce, Repair, Recover, Recycle and Re-Use*) and the Polluter Pays Principle;

• Flexible collection mechanism (encouraging consumers to return discarded, products, decentralized collection system);
KEY PROVISIONS OF REGULATIONS...

- Incorporates the Extended Producer Responsibility;
- Outright prohibition of End-of-life/unusable/unserviceable EEE;
- Designation of responsible parties/roles of different stakeholders, performance target and recycling standards;
- Practice of Environmentally Sound Management (ESM);
- Equal treatment without preference in relation to enforcement;
- Incentive based (to encourage voluntary compliance).

**NOTE:** There have been series of Stakeholder forum to create a broad consensus amongst the various Stakeholders of WEEE.
STAKEHOLDER CONCERNS

Manufacturers, Assemblers, Importers and Distributors
- To be made responsible for what they know nothing about;
- Cost of retrofitting and complying with new standards;
- Unfair competition in the event of weak implementation of regulations;
- Shortage of wastes;
- Proper treatment technologies and intellectual property issues;

Firms investing in Recycling

The Public
- Increased cost in an environment where consumer protection is weak;
- Accessibility of collection points;
- How will government achieve effective enforcement;

Government
- Desire to give effectiveness to Regulations;
- Viable financing mechanism to operationalize EPR;
- How to deal with “orphan waste” and “white box products”
LOOKING AHEAD

• The logistics behind the implementation of the regulation when it takes effect need careful analysis for it to be viable and sustainable:
  – Impacts of cost in relation to required/existing institutional setups should be taken into account;
  – Need for concerted analysis of the existing system and WEEE recycling practices;

• Regulatory Authorities must be ready to work together:
  – *Inter – tier* and *intra – tier*;
  – Harmonization of current initiatives is imperative.
LOOKING AHEAD...

• Regulatory Authorities must appreciate the nexus between environmental protection and economic issues surrounding EEE. This is fundamental.

  – Objective should be to ensure balance between environmental and economic considerations;

  – Need to educate and create thorough understanding and awareness of the Regulations at various levels of stakeholders;

• Government must be willing to assist in building local capacity on collection and treatment of e-waste;

• Competition and market forces should vigorously be encouraged to ensure that compliance costs does not become prohibitive;
LOOKING AHEAD…

- States like Lagos State must urgently work towards a complementary system that can also guarantee “informed and smart” decision-making in the Regulation and Management of e-Waste.
  - Different states programmes, programmatic/business inefficiencies will arise owing to overlapping and possibly discordant rules and regulations;
  - NESREA should encourage alliance with the States;
- What possibilities exist to give funding support to the informal sector.
PARTING SHOTS !!!

• We cannot afford to fold our arms in the face of the daunting tasks ahead;

• We equally cannot destroy existing livelihoods, but, rather make them sustainable and safe;

• Neither can we afford to trade blames;

• What we need is to co-operate in understanding the problem every step of the way, and jointly proffer workable, implementable solutions and strategies.
THANK YOU.