How do European regulators enforce recycling regulations?

14 September 2021

Today's Webinar

Introduction to Sphera and EC4P recycling compliance solution

Possible enforcement action & enforcement examples	Germany
	Ireland
	United Kingdom
Recent regulator enforcement activities	Ireland
	Germany

How a seller's competitors can report them for non-compliance

Tackling non-compliance from online sellers

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Meet the Speaker

Jordan Girling
Senior Manager
jgirling@sphera.com

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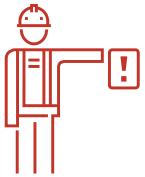
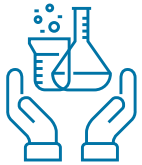
Our Mission

Sphera is a leading global provider of Environmental, Social and Governance (ESG) performance and risk management software, data and consulting services with a focus on **Environment, Health, Safety & Sustainability (EHS&S), Operational Risk Management** and **Product Stewardship**.

Environment, Health, Safety & Sustainability



Operational Risk Management



Product Stewardship

To create **a safer, more sustainable** & **productive world**.

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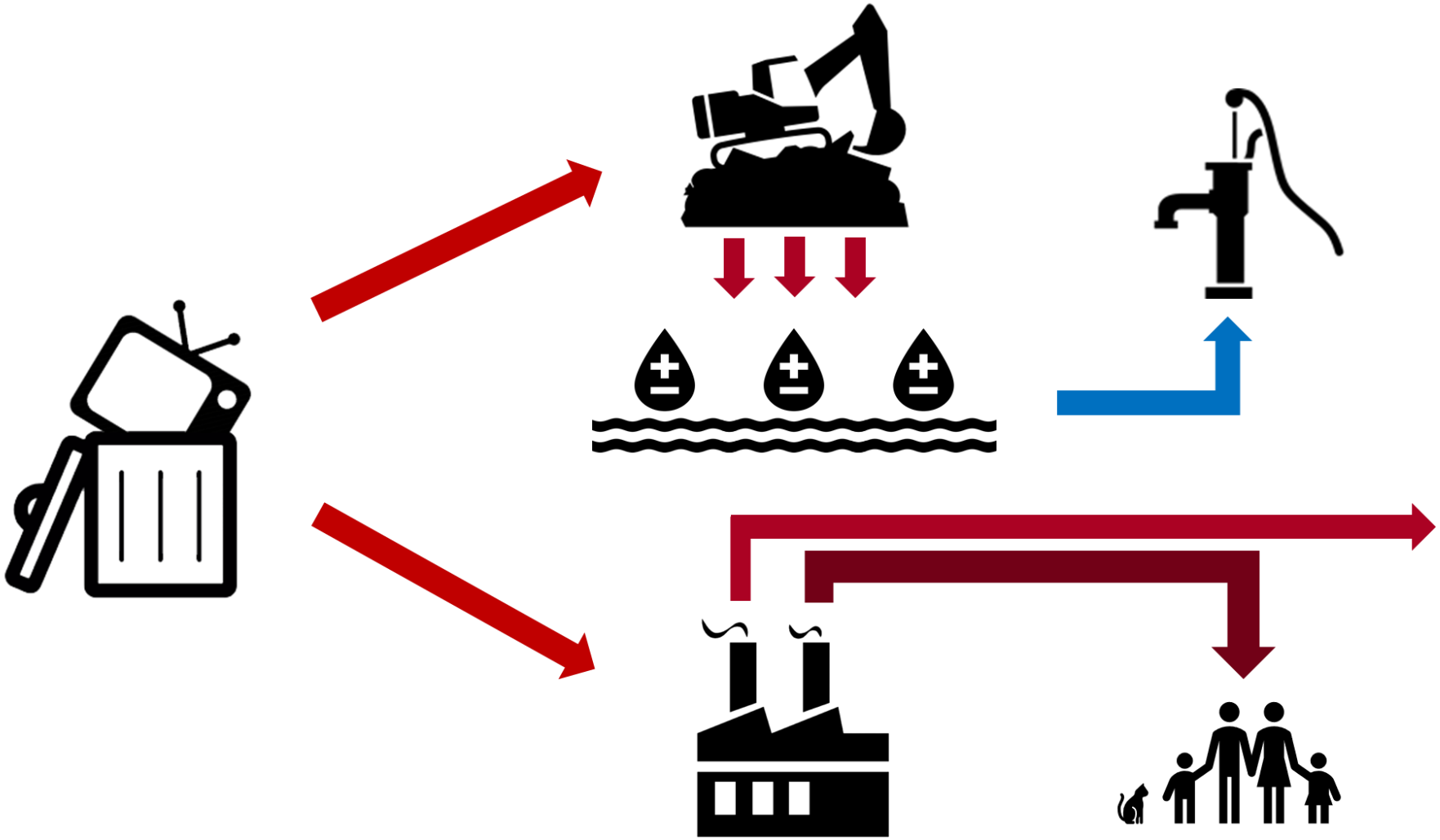
Reducing the Environmental Impact of Waste Electrical and Electronic Equipment (WEEE), Batteries and Packaging



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Reducing the Environmental Impact of E-waste

Reduce use of hazardous substances in new products

RoHS substance restrictions

BOMcheck

Improve the recycling of e-waste

E-waste recycling regulations

EC4P

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WEEE, Batteries and Packaging Recycling Regulations

Also known as ‘Extended Producer Responsibility’ regulations:

To reduce the amount of waste going to landfill or incineration, ‘producers’ must pay to recycle waste equipment, waste batteries and waste packaging when they sell new products.

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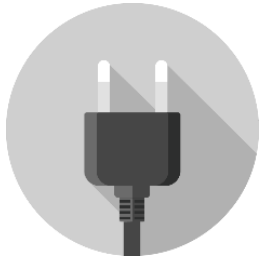

EU WEEE Directive

WASTE ELECTRICAL & ELECTRONIC EQUIPMENT

27 Member State regulations with different registration, collection, recycling and data reporting requirements

EU Batteries Directive

27 Member State regulations with different registration, collection, recycling and data reporting requirements

EU Packaging Directive

27 Member State regulations with different registration, collection, recycling and data reporting requirements

Plus EFTA countries (Switzerland, Norway & Iceland) and the UK

= 93 Regulations!

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WEEE ‘Producers’ Are Responsible for Compliance

Located in the Member State and manufacture and sell EEE under your own brand

Located in the Member State and resell EEE under your own brand (EEE is originally manufactured by another company)

Located in the Member State and import and sell another company’s branded EEE

Sell EEE through distance communication directly to end-users in the Member State and located in another country

Producer

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Compliance Obligations for WEEE Producers

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Packaging and Batteries ‘Producers’ Are Responsible for Compliance

- Company in Member State supplying batteries for the first time to third party in same Member State
- Includes Batteries incorporated into electrical appliances and vehicles

- Suppliers of packaging materials
- Packaging manufacturers and converters
- Fillers and users
- Importers
- Traders and distributors

Producer

© 2021 Sphera

Compliance Obligations for Packaging and Batteries Producers

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Compliance Enforcement Actions and Examples

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Germany: Compliance Enforcement Actions and Examples

Fines of up to €100,000, per offence and forced stop-sells (source)

Tesla were fined €12 million for not complying with their batteries obligations (source)

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Noncompliant Companies Denied Market Access in Germany

- On 15 April 2021, the German Federal Environment Ministry passed an amendment to the national WEEE regulations.
- The amendment stipulates that retailers/distributors must only sell electronic products from companies that are registered for WEEE with the German regulator, Stiftung EAR.
  - This also applies to an order fulfilment centres which stores an ecommerce company's inventory and processes customer orders for the company. The fulfilment centre is not permitted to fulfil customer orders for companies that are not registered for WEEE in Germany.
- This increased level of enforcement is designed to stop noncompliant companies being able to sell their products in Germany.
- The amendment will take effect from 1 January 2022, with some short transitional periods.

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Noncompliant Companies Denied Market Access in Germany

Stiftung Zentrale Stelle VERPACKUNGSREGISTER

Fallbericht 03/2020 „IT-Systemhaus - unterlassene Systembeteiligung“

Was ist der Hintergrund unseres Fallber

Eine große Gruppe verbund ektvertrieb (IT-Systemhaus) ist ihr nachgekommen und hat über Jahre gege gen verstoßen. Die Gesellschaften sind Hersteller sy ckungen in erheblichem Umfang. Sie befüllen ihre Verp bringen diese in Verkehr. Für die betreffenden Verkaufs-, Um- und versandverpackungen sind die Gesellschaften damit Hersteller/Erstinverk ger nach dem Verpackungsgesetz. Durch das Unterlassen der Systembeteiligung haben sich die Gesellschaften gegenüber Wettbewerbern, die sich

NON COMPLIANCE IN IT & TELECOM INDUSTRY

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Publication: verpackungsregister.org/fileadmin/Fallberichte/Fallbericht_03-2020_IT_Systemhaus_veroeffentlicht_am_21.09.2020.pdf

Noncompliant Companies Denied Market Access in Germany

Stiftung Zentrale Stelle VERPACKUNGSREGISTER

Fallbericht 04/2020 „Modeboutiquen mit Online-Shop – Import, unterlassene Systembeteiligung“

NON COMPLIANCE IN FASHION INDUSTRY

Was ist der Hintergrund unseres Fallberi

Mehrere gesellschaftsrechtli schen Modemarke
mit eigenem Direktvertrie sind ihrer
Produktverantwortung für men und haben über Jahre gegen
ihre verpackungsrechtliche sen. Die inländischen Modeboutiquen sind
Hersteller systembeteiligung packungen. Insbesondere importieren sie verpackte
Waren und werden dadurch stellern im Sinne des Verpackungsgesetzes hinsichtlich der
Verkaufsverpackungen. Darüber hinaus befüllen sie Versandverpackungen mit Ware und

© 2021 Sphera

Publication: verpackungsregister.org/fileadmin/Fallberichte/Fallbericht_04-2020_Modeboutiquen_veroeffentlicht_am_30.10.2020.pdf

Noncompliant Companies Denied Market Access in Germany

Stiftung Zentrale Stelle VERPACKUNGSREGISTER

Information & Orientation | LUCID Packaging Register | Foundation & Authority

You are here: Home » Information & Orientation » News & press » News » ZSVR provides state authorities...

ZSVR provides state authorities with a digital portal for efficient enforcement of the Verpackungsgesetz

21.04.2021

State authorities and the ZSVR are working together more cl… …orities Portal is making the way they collaborate faster and more goal oriented.

The Zentrale Stelle Verpackungsregister (Ce… …kaging Register – ZSVR) is advancing the progress of strategic digitalisation. The new LUCID Authorities Port… …been available since 12 April 2021. Transmitting evidence is becoming simpler and more secure. The portal automatically generates a digital file of suspected administrative offences that have been identified

INCREASED ENFORCEMENT

Website: verpackungsregister.org/en/information-orientation/news-press/press-releases-news/detail/news/zsvr-provides-state-authorities-with-a-digital-portal-for-efficient-enforcement-of-the-verpackungsgesetz

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WEEE and Batteries Compliance is Actively Enforced in Ireland

- Ireland has some of the most severe penalties for non-compliance in Europe
- Under the Waste Management Act, companies that are noncompliant with WEEE can face **penalties up to €10 million**, or 10 years **imprisonment**, or both.
- When first registering in Ireland, companies must declare whether they had complied with their legal obligations in previous years.
- If the company was noncompliant in previous years, the company must retrospectively pay costs that were avoided in previous years' including
  - Authority registration fees
  - Compliance scheme membership fees
  - 'Authorised Representative' service fees

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EPA Has New Powers to Issue On-the-spot Fines in Ireland

- Instead of prosecuting companies under the Waste Management Act, the Environmental Protection Agency (EPA) now has new powers to issue Fixed Payment Notices (FPN's).

- FPNs are on-the-spot fines that the EPA can issue without taking the company to court.

- FPNs include
    - Failing to register as a producer: €2,000
    - Failing to meet reporting obligations: €500
    - Failing to display a registration number on invoices and websites: €500

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Ireland: Compliance Enforcement Actions and Examples

Fines up to €10 million & up to 10 years imprisonment (source)

Eye Spy CCTV were fined €25,000 for failing to register for WEEE and subsequently report sales data (source)

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UK: Compliance Enforcement Actions and Examples

Unlimited fines for WEEE/batteries (source)

Babz Media were fined £45,500 for failing to register and for failing to finance the collection, treatment and recovery of WEEE & batteries (source)

Typical fines of up to £25,000 per packaging offence (source)

LEC Limited were finned £121,700 for failing to register and for failing to take reasonable steps To recover and recycle packaging (source)

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Competitors Can Report Companies for Noncompliance

- Competitors can check publicly available lists and report noncompliant companies to regulatory authorities.
- For example, most companies list their sales offices on their corporate website. Companies with a sales office in a particular country likely have WEEE, Batteries and/or Packaging compliance obligations in that country.
- Many regulatory authorities published lists of companies that are compliant to the regulations in their country.

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European WEEE Registers Network encourages companies to report non-compliant competitors to Regulators in EU Member State

Complaint against producers of EEE that are not registered or not correctly registered according to the WEEE directive 2012/19/EU

All information and data are voluntary. They support the competent national enforcement authority in the prosecution of producers of electrical or electronic equipment that are either not or not correctly registered according to the WEEE directive 2012/19/EU.

1. data of informant (voluntary):

Letters such as ä, ö, ü, ß, ë, ř, š, æ, ø etc. can not be displayed in this form.

a. name and surname

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Website: umweltbundesamt.de/sites/default/files/medien/2503/dokumente/weee_complaint_form.pdf

Hotline for reporting noncompliant companies in Netherlands

Nationaal (W)EEE Register

Contact | EN NL

HOME | PRODUCERS | REPORTS | OPERATORS | REGISTRATION | FAQ | DOCUMENTS | LINKS | CONTACT

Hotline (non registered) producers

Do you know an entity that you think is a producer of EEE and that does not appear on the list of registered producers (see link in orange frame top right)? You can report this entity to the Dutch Inspection (ILT) via this link. Fill in "afval" at "rubriek"and "free riders en illegaliteit" at "soort". Give your mail address in step 2 and ILT directly sends a verification mail with a link to a web form in which you briefly explain your report."

Registered producers

Click here for the current overview of producers (and importers) of EEE that have registered.

Website: nationaalweeeregister.nl/english/producers.html

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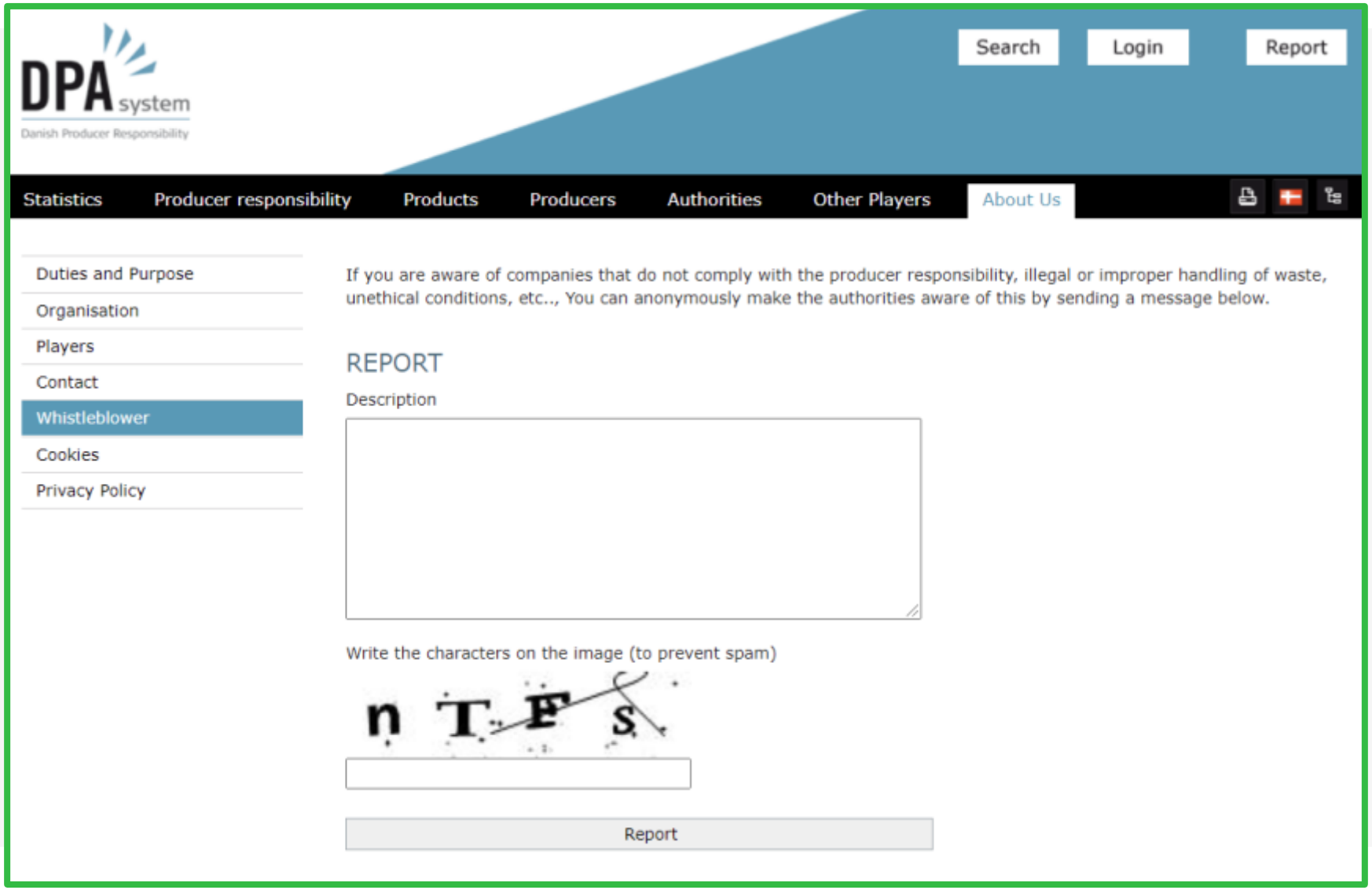
Website for reporting noncompliant companies in Denmark



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Website: dpa-system.dk/en/DPA/About-DPA-System/Whistleblower

Public Database of WEEE compliant companies in Germany

ear portal Contact Help To press

List of registered manufacturers and registered authorized representatives according to the ElektroG

Important information: Only those hits are displayed that exactly match the search term you entered, ie a search for the brand "abc", for example, only returns hits with the brand "abc", but not those with the brand "abcd" . **If you are unsure, please use an * before and / or after the search term (eg "abc"). In this way, all hits are found that contain the search term, for example "abcdef" when searching for "abc *". You do not have to pay attention to upper and lower case letters.**Figurative marks are displayed collectively at the beginning or at the end of the hit list, depending on the sorting order of the mark column. When searching for a brand, the market exit date is the end date of a specific registration, while when searching for a manufacturer / authorized representative, it is the end date of the last registration. The market exit date on October 26, 2018 can also be the date of a registration transfer (legal change on August 15, 2018).

Manufacturer / authorized representative name

WEEE reg. No. DE

brand: Apple

category: - -

Device type: - -

Display Manufacturer / Authorized Representative Display trademarks new search

<< < 1 2 3 4th 5 > >> Total number: 126 Entries per page: 10

DE	Manufacturer / authorized representative name	category	Device type
111693 30	Apple Retail Germany BV & Co. KG	Information and telecommunications equipment	'Personal' information and / or data processing

Website: ear-system.de/ear-verzeichnis/hersteller#no-back

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Increased Enforcement for Online Sales

- In December 2020, over 150 participants, including regulators from ten Member States, attended a meeting organised by the European Association of Lighting WEEE compliance schemes to discuss national approaches to prevent noncompliant sales through online marketplaces ('free-riding') (source).

- Five leading environmental NGO's called on German Ministers to act against online free-riders via a publicly available letter (source).

- In March 2019, the Organisation for Economic Co-operation (OECD) published a report recommending measures to tackle free-riding, including increased enforcement for online sales.

- The latest UK Waste Strategy mentions that proposed regulation reviews will lead to the introduction of measures to tackle free-riding associated with online sellers.

- In 2021, an EU Market Surveillance Regulation will come into force requiring online sellers (e.g. Amazon and eBay) to evidence compliance for non-EU manufacturers selling on their sites (source).

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eunomia

SERVICES CASE STUDIES

Extended Producer Responsibility (EPR) and the Impact of Online Sales

4th March 2019

by Mark Hilton, Dr Chris Sherrington

This report for the Organisation for Economic Co-operation and Development (OECD) examines the scale of free-riding of producers and retailers across the Electrical and Electronic Equipment market.

Website: eunomia.co.uk/reports-tools/extended-producer-responsibility-online-sales/

resource

Sharing knowledge to promote waste as a resource

GOVERNMENT EUROPE

FRANCE TO FORCE ONLINE RETAILERS TO TACKLE COMPLIANCE FREE-RIDING

By Lidia Creech | 27 January 2019 | Add a Comment

PRINT E-MAIL SHARE

The French Government is set to introduce new rules obligating online marketplaces, such as Amazon, to ensure that the collection and recycling of waste aris is properly financed.

Website: resource.co/article/france-force-online-retailers-tackle-compliance-free-riding-13061

resource

Sharing knowledge to promote waste as a resource

MATERIALS WEEE

OECD REPORT URGES GOVERNMENTS TO CRACK DOWN ON WEEE FREE-RIDING

By Lidia Creech | 6 July 2018 | Add a Comment

PRINT E-MAIL SHARE

A new report from the Organisation for Economic Co-operation and Development (OECD) has urged f online free-riding by digital marketplaces with regard to nes for waste electronic and electrical equipment (WEEE).

Website: resource.co/article/oecd-report-urges-governments-crack-down-weee-free-riding-12725

resource

Sharing knowledge to promote waste as a resource

MATERIALS WEEE

NEW EU REGULATION TO CRACK DOWN ON WEEE FREERIDERS

By Tansy Dando | 21 August 2019 | Add a Comment

PRINT E-MAIL SHARE

A new regulation will be implemented in 2021 stipulating that all online retailers must take responsibility for ensuring compliance

Website: resource.co/article/new-eu-regulation-crack-down-weee-freeriders

letsrecycle.com

WEEE

Non compliant WEEE prod online 'increasing'

The number of non-compliant producers selling waste electrical and equipment (WEEE) on online platforms is increasing, the European W Network (EWRN) says.

An independent network of the registers overseeing the national impl WEEE directives in EU member states, the EWRN claims online platfo

Website: letsrecycle.com/news/latest-news/noncompliant-weee-producers-online-increasing/

letsrecycle.com

WEEE

Online retailers may have duty to collect WEEE

VIDEO REPORT: The government is to consider requiring online retailers and marketplaces to collect old electronics from consumers to ensure their obligations are the same as those of physical retailers.

Published today (26 February), the commitment forms part of the government's

Website: letsrecycle.com/news/latest-news/online-retailers-may-have-duty-to-collect-weee/

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Website: eucolight.org/single-post/2019/11/08/eucolight-conference-reveals-disturbing-eu-wide-scale-of-weee-non-compliance-through-onli

EucoLight
European Association of lighting
WEEE compliance schemes

Press Release • Nov 8, 2019

EucoLight conference reveals disturbing EU-wide scale of WEEE non-compliance through online marketpl

Updated: Oct 30, 2020

EucoLight
European Association of lighting
WEEE compliance schemes

Press Release • Oct 19, 2018

Non-compliant products bought at online marketplaces: a serious issue all over Europe

A workshop, hosted by Eucolight, the European association for lighting WEEE compliance schemes, gathered more than 100 experts to discuss about online sales of non-compliant products.

Website: eucolight.org/single-post/2018/10/19/noncompliant-products-bought-at-online-marketplaces-a-serious-issue-all-over-europe

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Organisation for Economic Co-operation and Development

ENV/EPOC/WPRPW(2017)2/FINAL

Unclassified

English - Or. English

6 June 2018

ENVIRONMENT DIRECTORATE
ENVIRONMENT POLICY COMMITTEE

Working Party on Resource Productivity and Waste

EXTENDED PRODUCER RESPONSIBILITY (EPR) AND THE IMPACT OF ONLINE SALES

Publication: oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/EPOC/WPRPW(2017)2/FINAL&docLanguage=En

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Recycling & WASTE WORLD

A catalyst for positive change in the resource management community

How WEEE freeriders are costing the industry millions

Written by: Nigel Harvey | Published: 08 October 2018

The growth of online shopping is harming the environment thanks to 'freeriders' escaping WEEE compliance – but there is a solution.

Buying from online marketplaces gives consumers access to a vast range of products, frequently available on next-day delivery, from a huge number of suppliers, many of whom are based outside of the UK.

That range of choice is one of the reasons they have been so successful. But it can also result in non-compliance of product – and suppliers – with European and UK standards and legal requirements.

And because the supplier is frequently based on the other side

Website: recyclingwasteworld.co.uk/in-depth-article/how-weee-freeriders-are-costing-the-industry-millions/189992/

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Bund für Umwelt und Naturschutz Deutschland

BUND

FRIENDS OF THE EARTH GERMANY

GERMANWATCH

NABU

Offener Brief an Bundeswirtschaftsminister Peter Altmaier und Bundesumweltministerin Svenja Schulze

Illegaler Import von Elektrogeräten über Online-Verkaufsplattformen

Sehr geehrte Frau Bundesministerin, sehr geehrter Herr Bundesminister,

immer häufiger werden Elektrogeräte über Online-Verkaufsplattformen wie Amazon, Ebay oder Alibaba in Deutschland vertrieben, ohne dass die Hersteller ordnungsgemäß bei der Stiftung

Publication:
duh.de/fileadmin/user_upload/download/Projektinformation/Kreislaufwirtschaft/Elektroger%C3%A4te/181119_Offener_Brief_Illegaler_Import_von_Elektroger%C3%A4ten.pdf

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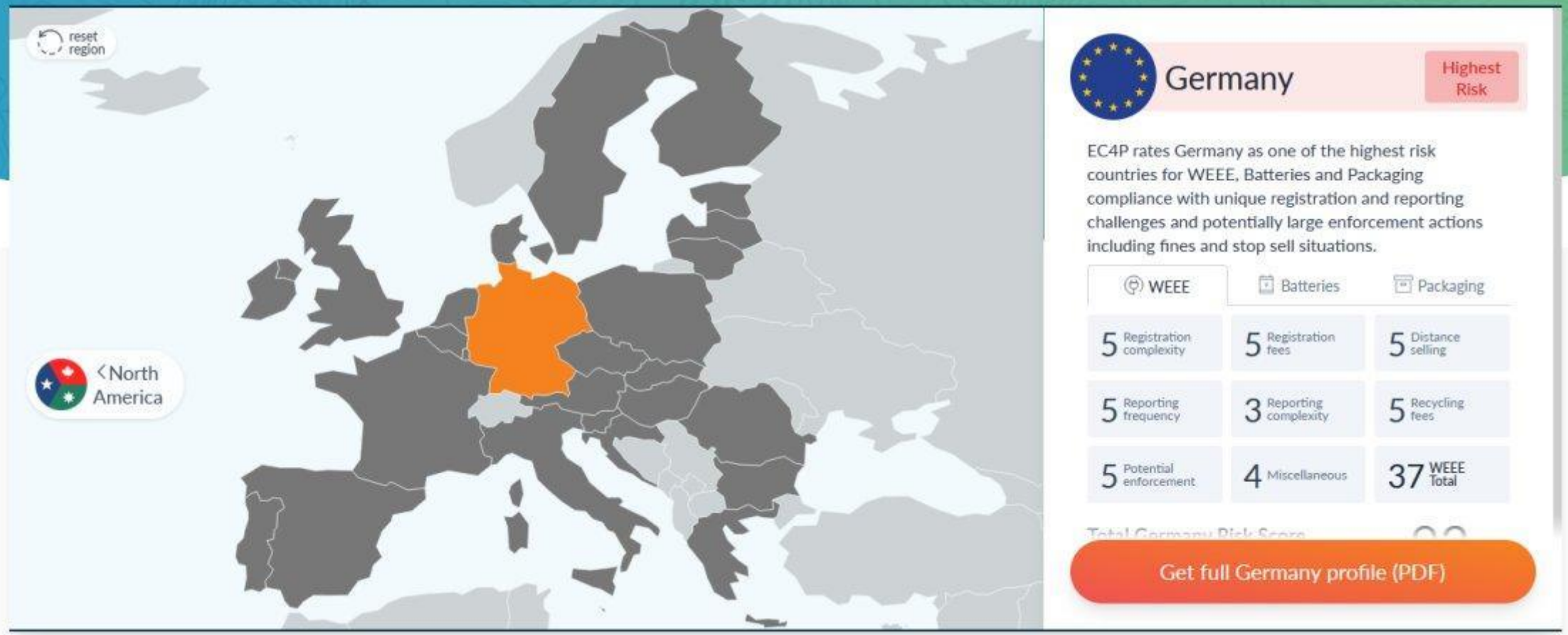
Global Recycling Laws & Regulations

Use our compliance risk rating and comparison map to understand more about the requirments where you sell products.



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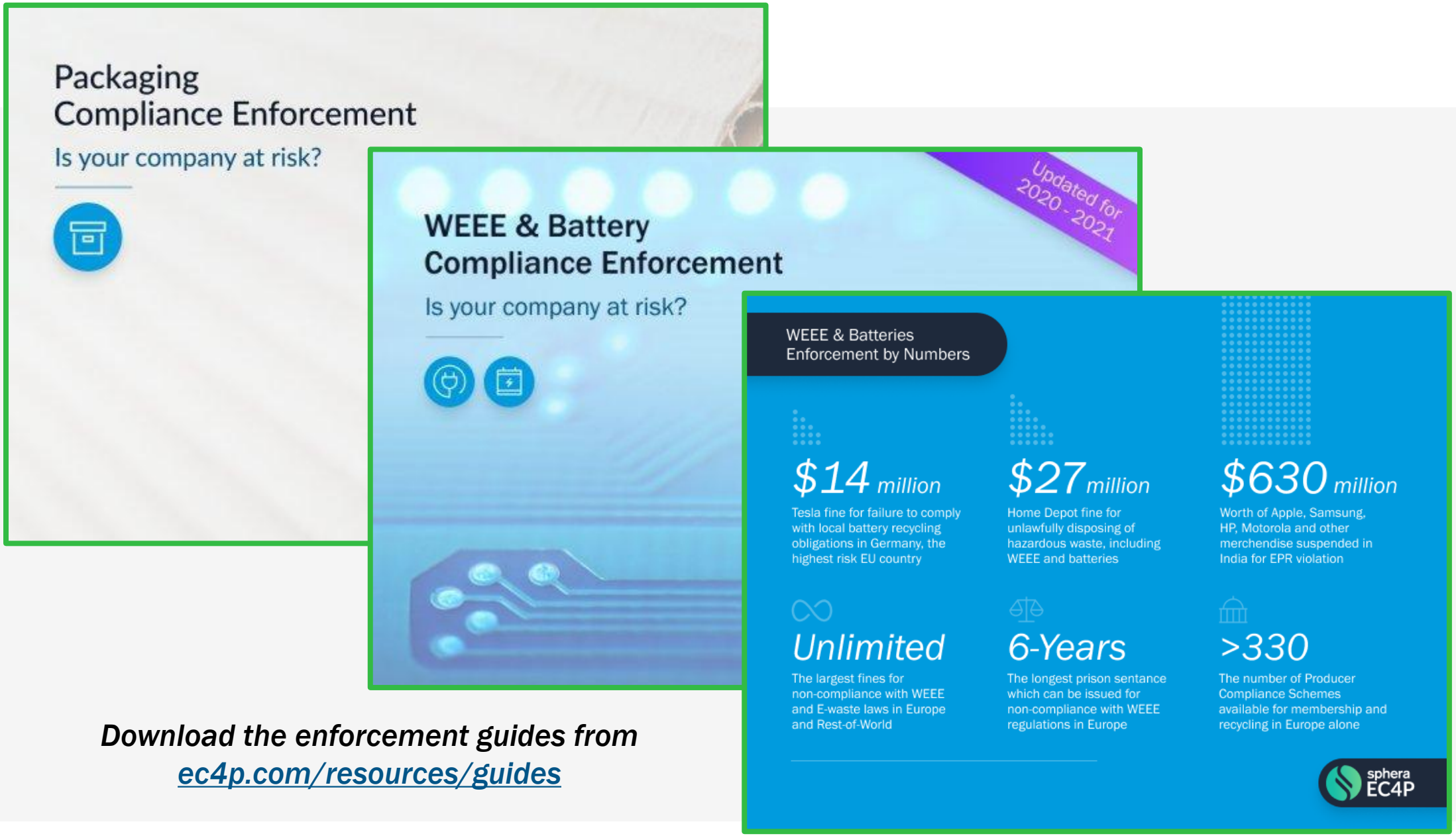
Website: ec4p.com/legislation



Download the enforcement guides from
ec4p.com/resources/guides

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Examples of Enforcement Outside of Europe

WEEE Directive

Battery Directive

My Obligations

Enforcement in EU/Europe

Enforcement in North America

Enforcement in Rest of World

EC4P Services

USA

Large Fines

Non-compliance in USA can be enforced with fines up to $1,000,000 (€842,875).

Year	Company	Fines/Prosecutions	Information
2019	Total Reclaim	Company owners sentenced to 28 months in prison	In 2019, the owners of Total Reclaim had been sentenced to 28 months in prison after pleading guilty to federal charges related to the improper export of WEEE to Asia.
2018	Home Depot Inc.	**$27,000,000 (€22,335,277)**	Sever total fines for unlawfully disposing of hazardous waste, including WEEE and batteries. The District Attorney's Office partnered with Environmental Regulators for waste inspections in Home Depot dumpsters. They found evidence of routine and systematic dumping of hazardous WEEE.
2018	Target	**$7,400,000**	The State of California found Target had broken WEEE recycling laws by

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Examples of Enforcement Outside of Europe

WEEE Directive

Battery

My Oblig

Enforce
EU/Euro

Enforce
North A

Enforce
Rest of

EC4P Se

USA

Large Fines

Enforcement in North America

Enforcement in Rest of World

EC4P Services

India

Large Fines

Stop Sell

Non-compliance in India can be enforced with unspecified fines and suspension of imports into India.

Suspension of imports for well known brands

In April 2019 the Indian Government suspended the import permits of 10 companies – including Apple, Samsung, Motorola and HP – for violating EPR clauses under the e-waste rules. The total value of merchandise stranded in customs was estimated to be over €630,000,000 which led to a significant impact on the companies quarterly sales.

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Next webinar on Wednesday, November 10, 11.00am – 12.00noon

Sphera EC4P have developed a “One, Two, Three” step process to help you implement a robust global E-waste, Batteries & Packaging compliance program:

- Identify your compliance exposure with EC4P’s online Compliance Risk Map, country risk profiles and accompanying information resources
- Stay on top of the expanding and evolving recycling laws applicable to your products with EC4P’s customisable Regulatory Monitoring Service
- Let EC4P’s expert consultants and best-in-class software guarantee your global compliance program with our Managed Compliance Services

Register for “Manage global compliance to recycling regulations” webinar at:
us02web.zoom.us/webinar/register/WN_uMSgx8arQcC0qbHqvkrJzA

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Questions?

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