

26 September 2019

*STATEMENT IN RESPONSE TO THE DECISION OF THE NEWCASTLE-UPON-TYNE MAGISTRATES COURT  
IN THE CASE BROUGHT BY THE ENVIRONMENT AGENCY AGAINST NORTHERN COMPLIANCE*

Northern Compliance (NC) welcomes the outcome and conclusion of matters brought against it by the Environment Agency (EA) following a Newton Hearing held recently in the Newcastle-Upon-Tyne Magistrates Court.

The EA had sought a minimum £1.1m from NC. However, the Court ordered NC to only pay to the EA the balance of its collected obligation account in full and final settlement. NC was not fined or ordered to pay any costs. The Court's decision corresponds with the offer made on several occasions by NC to the EA, but which the EA had routinely rejected.

In Court proceedings, the EA disputed NC's plea of mitigation, which showed three failing WEEE collection systems in 2017. The systems, operated at the time by its contracted Approved Authorised Treatment Facilities in Q2, Q3 and Q4 of 2017 in a UK WEEE collection system, were 24% percent under collected in TV and display equipment, and 16% under collected overall. This created a "perfect storm" for NC.

NC's difficult situation was further compounded by two evidently disproportionate uplifts in the Compliance Fee Mechanism, which forced NC to breach the relevant regulations. NC simply had not been able to collect additional funds from members to meet the imposed compliance fee in full at that time. NC was also prevented from going back to its members due to the operation of the regulations.

NC is pleased that these proceedings have now concluded and views the Court's decision as a recognition of our view that the JTA proposal was inappropriate and unfair. In an under collecting marketplace, the two disproportionate uplifts amid the mitigating circumstances NC found itself in, did not warrant the action taken by the EA.

In a world where waste management is a vital environmental concern, it is important that the business of recycling remains competitive. Any reduction of competition in the marketplace does not just affect business, but ultimately creates less options for consumers to dispose of their recyclable goods properly.

NC ceased trading in December 2018 but not before it had ensured its former members were fully compliant with their obligations to finance WEEE collections.