

14th March 2022

JBCE Contribution of Call for Evidence for an Impact Assessment of RoHS

The RoHS Directive functions well under New Legislative Framework on the EU market and has contributed to protecting the environment and human health. Therefore, JBCE supports the RoHS Directive. Major changes – such as repealing the RoHS Directive or incorporation into other legislation - are not desired. JBCE would like to appoint following points in order to make the RoHS Directive more efficient and effective.

1. Exemption

The electrical and electronic equipment (EEE) manufactures have diligently contributed to the elimination of harmful substances under the RoHS Directive. Large amount of the restricted substances in Annex II have already been abolished or replaced by the efforts so far. Current transparent and impartial assessment of the exemption process functions positively in society and economics. As a result, the RoHS Directive contributes significantly to protect the environment and human health. On the other hand, the administrative burden of exemption process is high for all stakeholders. Thus, the burden should be reduced, and the evaluation time should be shortened by simplifying the current process. Furthermore, the socio-economic impact assessments should be more balanced and realistic. Concretely we suggest the following improvements:

Firstly, the exemption period for some items should be longer. EEE manufactures have been successfully working on substituting restricted substances. The current exemptions, however, are very difficult to replace. The manufactures' resource now needs to be spent on innovation for substitution by reducing the administrative burden of frequent renewal of exemptions.

Secondly, our experience has shown that 18 months of transition period is short to replace with the entire supply chain after the expiration of the exemptions. Due to the long supply chain for EEE, transition periods of at least 24 months for category 1-7, 10 and 11, and 36 to 42 months for categories 8 and 9 are required.

Thirdly, the wordings of exemptions should be simple and understandable so that the RoHS Directive can be complied throughout the supply chain. Subdivision into overly detailed wording is difficult to understand and causes confusion in the supply chain.

Fourthly, the evaluation of all categories should be combined in one evaluation procedure in case application(s) is/are submitted for one exemption for different expiry dates during similar times. This will reduce the overburden of not only European Commission but also of the industry side. For example, category 11 products are appropriate to evaluate together with categories 1 to 7 and 10 if

the usage are similar. For the products of categories 8 and 9, we welcome that the evaluation is also done together with other categories as far as there are no specific physical characteristics are asked for these products. However, longer exemption period is necessary for these products because the product life cycle is long and high reliability is asked and for some products the third-party certifications are required.

Last but not least, we would like to appoint that careful consideration is necessary in case references - which are used for calibration - should be restricted as hazard substances (for example, exclusion). Calibration is fundamental and essential for accurate measurements, and especially relevant to categories 8 and 9 products. The introduction of restriction on references should not hinder the accurate measurement – consequently science, research and development.

2. Spare Parts

Current provisions of the RoHS Directive Article 4 make the repairment of legacy equipment possible. Through this, a huge amount of EEE waste is saved. If these provisions for spare parts are reformed and such legacy parts are not anymore allowed to use for repair, legacy products cannot be repaired any more since manufactures cannot redesign the legacy parts for discontinued products. As a result, the amount of waste will increase. This gives a large negative impact on environment and is against the policy of Circular Economy.

3. Substance restriction assessment: “One substance, one assessment” principle

Regarding to the assessment of restriction substances, a better alignment of RoHS Directive with REACH Regulation would be good. Substances that are not “hazardous” under the REACH Regulation should not be considered for possible restriction under the RoHS Directive. (In the past, even extremely safe food contact materials were on a list for RoHS consideration.)

However, for final products level, sector-based assessments, considering the important aspects of a particular type of products should be done. EEE are special in following points:

- For substances in the interior of EEE (the electronic parts), consumers are not directly exposed
- via the WEEE Directive, there are already collection schemes for recycling. There may be room for improvement, but if collection and recycling are properly done, the substances are not distributed in the environment
- EEE often rely on very unique properties of special elements which bring benefits to our society.

4. Consistency with related EU legislations

Double regulation should be avoided. To ensure the best possible inter-relationship among different chemical legislations and to avoid contradictions, we welcome documents such as “*REACH AND DIRECTIVE 2011/65/EU (ROHS) A COMMON UNDERSTANDING*” by European Commission published in 2014. Such a document reduces administrative burdens and increase the efficiency.

The RoHS Directive should remain a sector-based regulation. Measures such as repealing the RoHS Directive and incorporate its provisions into the REACH Regulation or address some product requirements under sustainable products legislation will bring serious negative influence in industries and the society.

The REACH Regulation mainly focuses on substances. On the other hand, RoHS Directive focuses on mitigating adverse effects substances during and after the use of the products. For EEE, it is important to not just take a chemocentric approach, as ECHA might be inclined to do. We need to weigh the safety and reliability of the EEE against possible chemical hazards. An EEE that bursts into flame because it is “free of flame retardants” is not a safe product. (In weighing which flame retardant to use, we of course need to consider their hazards and choose the safest one with adequate performance.)

The requirements for changes and substitutions in final products must allow sufficient time for design changes, functional and liability tests, and for some products certification from Notified Bodies.

The exemption process under RoHS Directive works well and is more fit-for-purpose REACH Regulation processes. In particular the way RoHS groups types of uses into categories for decision making has been quite efficient and suitable for a worldwide industry. In contrast, the authorization and restriction processes under REACH Regulation are quite unwieldy. The initial attempts to cover all uses of particular substances such as chromates under single REACH authorisations were too vague and complicated for decisions. Single uses are easier to handle for REACH Authorisations, but in view of the huge number of players in EEE supply chains, individual “REACH-like exemptions” would overwhelm industry and risk managers. Furthermore, the RoHS Directive provides a level-playing-field between EU products and imported products which is not provided by REACH Authorisation currently.

The introduction of provisions related to recycled materials and critical raw materials into the RoHS Directive is not necessary. The necessary provisions vary depending on product types, and this issue should be covered by Ecodesign Directive. Overlap and contradictions between two legislations should be avoided.

Last but not at least, the RoHS-like legislations have been adopted by many countries outside of the EU. The international supply chain for RoHS compliance has been established, and internationally



harmonized standards are in place. If the RoHS Directive were replaced by wholly different measures, the well running system would be disrupted, creating problems and confusion.

About JBCE

Created in 1999, the Japan Business Council in Europe (JBCE) is a leading European organisation representing the interests of more than 90 multinational companies of Japanese parentage active in Europe.

Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceutical, steel, textiles and glass products.

Building a new era of cooperation between the European Union (EU) and Japan is the core of our activities, which we perform under several committees focusing on: Corporate Policy, Corporate Social Responsibility, Digital Innovation, Environment & Energy, Standards and Conformity, and Trade.

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