

19th July 2022

Consultation on the draft risk management evaluation for Dechlorane Plus and its syn- and anti-isomers

Being a cross-sector association with member companies operating in different industries and stages in the supply chain, JBCE welcomes the opportunity to contribute to the consultation on the draft risk management evaluation to Dechlorane Plus and its syn- and anti-isomers (hereinafter “Dechlorane Plus”).

JBCE strongly supports the Stockholm Convention and its objective to protect the environment and human health. At the same time, we also greatly support a risk assessment approach with regard to the use of chemical substances.

Spare parts for EEE should be exempted.

In the second draft risk management evaluation it is mentioned that time limited exemptions for applications and sectors, i.e., aerospace and defence sector and medical imaging devices and radiotherapy devices/installations due to long phase-in time. In addition, it is also recognized that time limited exemptions for use in legacy spare parts for motor vehicles, aerospace and defence applications, medical imaging and radiotherapy devices/installations and industrial machines may be needed to be able to repair articles that have a long service-life. JBCE welcomes these measures.

Additionally, JBCE would like to insist that time limited exemptions for use in legacy spare parts for electrical and electronic equipment (EEE) are also necessary. Without a spare part derogation, the following negative consequences will be the result:

- EEE already on the market and in use cannot be repaired (or upgraded); not only does this mean making EEE lifetime extension impossible, but this also will result in an increase of waste EEE. This fundamentally contradicts the European Green Deal and Circular Economy Action Plan objectives, as well as the forthcoming “right to repair”.
- Current and future EU eco-design material efficiency requirements demand that manufacturers to provide spare parts capacity for 7 to 10 years after last placing on the market of a model. This requirement cannot be fulfilled after a sunset date.
- Companies will place more spare parts in stock before the sunset date as a future reserve. As a consequence, the amount of Dechlorane Plus placed on the EU market will increase. The part of this stock that is not used for repair, will become waste.

Furthermore, it is not straightforward and not always possible to substitute spare parts with new Dechlorane Plus-free spare parts. When substituting spare parts, it is necessary to test whether the performance, durability and safety of the whole device are ensured. This process of testing cannot be followed with regard to old EEE, which is no longer produced.

Therefore, JBCE suggests adding a new exemption for
spare parts for EEE for its repair, its reuse, updating of its functionalities and upgrading of its capacity of equipment placed on the market before [implementation date]

which is in line with “repair as produced” principle of the RoHS Directive. This exemption will bring substantial benefits to the environment and users in EU. It will enable users to prolong the lifetime of their products instead of purchasing new one. Product safety and performance, as well as product lifetime extension, will be guaranteed by the availability of relevant spare parts. It will prevent unnecessary waste EEE and unnecessary use of raw materials. It also will reduce the amount of Dechlorane Plus which will be placed on the EU market as reserve spare parts.

Importantly, special attention should be paid to the case of the **long-life Products** such as:

1. Heating, ventilation, and air conditioning (HVACR) and Technical Building Systems (TBS)

HVACR/TBS have lifetimes that are significantly longer than those for consumer electronics as such they can be considered to be “long-lived electrical and electronic equipment” for which a spare parts exemption is justifiable. Ample evidence on the lifetimes of HVACR/TBS is available in the Ecodesign preparatory and review studies for HVACR/TBS product groups, conducted by the European Commission. For example, the average lifetime of air conditioners are 10 to 20 years.¹ “Right to repair” for these products should be guaranteed.

2. Monitoring and Control Instruments and medical devices (other than medical imaging application and radiotherapy devices)

Product lifetime of Monitoring and Control Instruments and medical devices are much longer than consumer products and may be used for 20 to 30 years.² These products are safety critical, so severe testing is necessary to substitute spare parts. “Right to repair” for these products should be guaranteed.

3. Other EEE

The EEE such as power supplies, circuit boards, cables, electric displays, connectors, solenoid valves, also contain fire retardant. Since these EEE are being used as common electrical components, it could be difficult to distinguish between consumer electronics and the above systems applications. Considering the industrial structure and the long and extensive supply chains, we would like to propose that spare parts for EEE should be granted an exemption of at least 10 years.

¹ Review of Regulation 206/2021 and 626/2011: Air Conditioners and comfort fans – Task 2 report – Final version, ENER LOT 10: Air conditioners, p. 51. Table 23: Average lifetime of units per product type.

Link:<https://www.eceee.org/static/media/uploads/site-2/ecodesign/products/Room%20air%20conditioning%20appliances%20ENER%20Lot%2010/Prestudy%202018/task-2---markets.pdf>

Table 23: Average lifetime of units per product type

Technology	Average lifetime (years)
Movables + Window Units	10
Small Split (<5 kW)	12
Big Split (>5 kW, incl. ducted)	12
VRF	15
Rooftop + Packaged	15
Chillers (A/W) < 400 kW	15
Chillers (A/W) > 400 kW	20
Chillers (W/W) < 400 kW	15
Chillers (W/W) > 400 kW	20

² Paul Goodman, Review of Directive 2022/95/EC (RoHS) Categories 8 and 9 – Final Report. ERA Technology, ERA Report 2006-0383, 2006, p.27-33.

Longer transitional period for B2B professional EEE

Longer transition periods are required especially for B2B professional EEE with long lifetimes, as listed above. A shorter transition period could hinder these products from being placed on the EU market, which could have negative impact on healthcare, heating and cooling critical infrastructure, analysis of hazardous chemicals, research and development, innovation in EU.

- Long product development time: These products are often safety critical, and thus high reliability must be ensured. Some products need to be re-certificated by a Notified Body. Therefore, the product development time is long. According to the ERA report, the new product development time is over 4 years and can be 7 years or longer.³ It will be suitable to allow these products – whose CE Declaration of Conformity is issued for the first time before the date of implementation – to place further on the market.

- Use of „life-time-buy“ components for EEE with long lifetime: Manufactures of B2B professional EEE are often forced to buy sufficient components to last the life of their products before these components become unavailable on the market because of technical difficulty and high cost of re-design with new components. If the transition period is too short, these components will become waste.

- Complex and multi-tiered supply chain: EEE are complex articles and related supply chains are not only global but multitiered (i.e. 5 tiers). Sufficient time is necessary for the supply chain to substitute Dechlorane Plus.

Based on the above mentioned facts and arguments, JBCE suggests adding a new exemption for

- manufacture, use and placing on the market of at least 7 years for HVACR, Technical Building Systems, Monitoring and Control Instruments and Medical Devices
- manufacture, use and placing on the market of at least 5 years for other EEE

At last, Dechlorane Plus is proposed the restriction not only by POPs but also by EU REACH, Prohibition of Certain Toxic Substances Regulations in Canada, etc. We kindly ask the authorities in each country and region to cooperate and align the consistency regulations with appropriate exemptions and transition periods so that the industrial stakeholders with value chains can apply to the restrictions without 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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³ Paul Goodman, *Review of Directive 2002/95/EC (RoHS) Categories 8 and 9 – Final Report*. ERA Technology, ERA Report 2006-0383, 2006, p.27-33.