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APPLiA input to call for evidence - RoHS Directive Revision

APPLiA comments on the call for evidence - RoHS Directive Revision

APPLiA, representing the home appliance industry, welcomes the launch of the call for evidence on the RoHS Directive revision. We see an opportunity that a further revision of the RoHS Directive can address some of the ongoing challenges related to the implementation of the legislation towards more coherence with other key EU legislations and further improvements in terms of exemption and restriction processes.

Our comments are summarised below on each policy options as listed in the call-for-evidence.

1. Maintain the RoHS Directive as it stands and introduce certain non-legislative ('soft') measures

We believe that this first policy option would not be sufficient to address properly the existing gaps in the Directive. Indeed, updating the existing RoHS FAQ document should already be a recurrent action to maintain a good level of effectiveness of RoHS implementation and the potential interactions with other legislations. Some parts of the FAQ are useful for interpreting the common understanding of the RoHS, but not sufficient to modify potentially needs identified in the past.

2. Simplify and clarify the RoHS Directive by introducing and revising legislative ('hard') measures and soft measures

In general, APPLiA would support this policy option. Targeted comments regarding the different possible measures are highlighted below:

2.1 Exemption process

We would like to highlight that even though improvements on the process of exemptions can be achieved, the mechanism of granting *per se* exemptions regarding restricted substances ensures a high-level of environmental and human health protection, while allowing the EEE industry to remain competitive.

We are concerned by the complexity of the exemption process which in our view, could be time-consuming, rather slow and does generate administrative burden. A possible solution could be having more realistic timelines for the administrative processes when it comes to the evaluation of exemption requests. It would lead to longer total evaluation times and, by consequence, to longer expiry dates for



the exemptions. However, we would like to insist that timelines should be tangible and achievable for stakeholders.

Moreover, we would welcome more transparency and predictability during RoHS exemption, and restriction, decision-making processes. To respond to that, a first action could be to use the ECHA's Integrated Regulatory Strategy and related methodologies that are very well placed to inspire and improve the functioning of the RoHS restriction and exemption processes.

We would also like to encourage public authorities both at EU and Member State level to make available the necessary resources to implement RoHS within appropriate and predictable timeframes to prevent significant delays in delivery. Guaranteeing relevant stakeholders' access to the regulatory processes for restrictions and/or exemptions under the Directive is ensuring greater transparency in terms of decision-making and is consistent with the EU Better Regulation Agenda.

2.2 Process of reviewing the list of restricted substances

Similarly to the exemption process, we would agree that the methodology for the restriction process could benefit from further clarifications and improvements for more predictability and transparency, with a better cooperation of the public authorities at EU and Member State level. For example, we would welcome clarifications concerning uncertainties on the eligibility of some substances, e.g. if the substance is not existing in our final product.

APPLiA would like to highlight that the RoHS Directive has both a European and international value. As such, RoHS restrictions and exemptions should remain in place, but the supporting processes should be more closely integrated with other restriction legislations. Due to its international value, we wish to stress the importance of improving the coherence and consistency of the implementation of RoHS restrictions and exemptions worldwide.

In terms of entrusting the exemption and substance restriction assessments to an existing EU agency, such as ECHA, we would like to emphasize that this option will make only sense if technological expertise is guaranteed to perform the assessments. For exemptions, next to technical aspects in particular socio-economic aspects should be taken into account as it is done already today. For restrictions, we believe it must be strictly technical/scientific, and, in any case, it must ensure an open communication with stakeholders.

2.3 RoHS and circular economy

Looking at circularity, we acknowledge that strong links exist between RoHS and the EU Circular Economy policy as it enables the reduction in use of hazardous chemicals in products and related sound and safe waste treatment, for instance.

On the idea to introduce provisions related to recycled material and critical raw materials, the home appliance industry is continuously working at innovative solutions to phase out hazardous substances from their products, to facilitate recycling processes and the use of secondary raw materials. But more efforts need to be done to ensure that the growth of the secondary raw materials market and chemicals legislation can work together. Fast-changing chemical regulation does not fit with long lasting goods. Even if industry is continuously trying to phase-out hazardous chemicals, the fast pace of chemical regulation updates will always pose the issue of legacy substances, as stated in our position paper on the Chemicals Strategy for Sustainability¹.

¹ APPLiA's sectoral position regarding the Chemicals Strategy for Sustainability, March 2021: available [here](#).



More specifically on reforming the provisions for spare parts, APPLiA members would like to consider spare parts with the “repaired as produced” principle for achieving the goal of circular economy while ensuring a meaningful implementation of Ecodesign requirements on the availability of spare parts. For that reason, we will recommend considering spare parts within the scope of RoHS applicable at the time when the product in which they were integrated was first placed on the market by the manufacturer or importer. In consequence, initial spare parts would have to be compliant with RoHS at the time when the original product containing the respective components was placed on the market.

3. Transform the RoHS Directive into a Regulation

While considering transforming the RoHS Directive into a Regulation, we would like to remind that in addition of having been successfully implemented regarding the reduction of the use of hazardous substances (e.g. Pb, Cd, PBDE, etc.) in EEE and other related environmental benefits, the Directive improved a harmonised level-playing field for economic operators, which has been ensured through an easier identification of EEE put on the market through the CE marking. This latter promotes an EU harmonised implementation of a conformity-detection system in the field of substances. However, we acknowledge that different national interpretations and priorities of Member States regarding RoHS exist and could generate differences in Market Surveillance activities. We would welcome a further harmonization in any legal form deemed most suitable and appropriate.

4. Repeal the RoHS Directive and incorporate its provisions into the REACH Regulation

APPLiA would not be in favour of such a policy for the following reasons:

- RoHS has its own scope specific to EEE, whereas REACH touches a much boarder scope. This difference is capital and both legislations should stay separated. Combining them whereas they cover different scopes would make little sense;
- RoHS has an international value and influence that proves its relevancy and should be preserved as already mentioned before. In that respect, we want to stress that legislators bear a particular responsibility in maintaining the achieved level-playing field;
- RoHS improved a harmonised level-playing field for economic operators, which has been ensured through an easier identification of EEE put on the market through the CE marking. This latter promotes an EU harmonised implementation of a conformity-detection system in the field of substances. Combining with REACH might hinder that important characteristic and benefit;
- RoHS Directive is considered as a *lex specialis* for our sector and has its value when considering EEE specificities with clear requirements and processes, such as the exemptions.

5. Repeal the RoHS Directive and address product requirements related to the environmentally sound recovery and disposal of electrical and electronic waste under sustainable products legislation

APPLiA would not welcome repealing the RoHS Directive, as justified by the highlighted points under point 4 but also due to the nature of each legislation: RoHS is dedicated to hazardous substances in EEE whereas the SPI is presumed to be a larger framework taking into account multiple environmental aspects of products. We strongly believe that the RoHS Directive should remain the primary legislation and keep the leading role in managing chemicals in materials, articles and in complex products. The legislators



should abstain from setting chemical requirements to products' components, since an inappropriate overlap with the current chemical-related framework of legislations, including RoHS, is unavoidable. This latter situation would thereby create more complexity on the existing set of rules, and consequently adversely impacting manufacturers of home appliances and market surveillance authorities. It would also result in generating an atmosphere with a great lack of legal clarity and certainty when it comes to compliance, not only to SPI and related Ecodesign rules, but also to RoHS.

APPLiA and its members would like to thank the competent authorities for their consideration and further feedback regarding our comments on the revision of the RoHS Directive.

We remain at your disposal to discuss the points we have raised above. Please do not hesitate to contact us via email: naomi.marc@applia-europe.eu

APPLiA - Home Appliance Europe represents home appliance manufacturers from across Europe. By promoting innovative, sustainable policies and solutions for EU homes, APPLiA has helped build the sector into an economic powerhouse, with an annual turnover of EUR 53 billion, investing over EUR 1.6 billion in R&D activities and creating nearly 1 million jobs.

