

POLITICAL DEBATE ON RECYCLING ELECTRICAL AND ELECTRONIC PRODUCTS UNDERMINES LEGAL AND POLICY CERTAINTY

2 November 2009

EPEE has welcomed the revision of the Restriction on Hazardous Substances (RoHS) Directive. In particular we are very pleased with the effort to formulate a well defined scope (distinct from WEEE), the better grounding of its scope on single market principles and the aim for enhanced compliance and market surveillance. In short, an overall package that should result in better harmonisation, more efficient compliance and enforcement of RoHS and so achieve the objective of “Better Regulation” at EU level.

However, we have some concerns regarding the latest debate in the Environment Council of Ministers on RoHS concerning its scope to apply to all electrical and electronic products (so called ‘open scope’). This would be a fundamental change in the political objectives and scope of the law. EPEE’s worrying points are based on the following reasons:

1. Impact assessment:

There has been no impact assessment on the widening of the scope to include all EEE. For air conditioning, refrigeration and heating appliances for example, only household and ‘light-commercial’ appliances are currently in the scope. There has been no assessment on the environmental, social and economic impacts for extending the scope to non-household heating and air conditioning products.

2. Focus on RoHS priorities:

Originally, RoHS was aimed at preventing pollution from hazardous substances of landfill from products entering the municipal waste stream. When expanding the scope of RoHS to products which are not likely to enter the municipal waste stream, the overlap with other legislation might create confusion.

E.g. risks from hazardous substances which may occur in other products will already be tackled by other EU legislation such as REACH.

3. Inefficient framework:

Opening the scope to all EEE will create a larger set of products to manage:

- a. More exclusions of product groups will need to be added
- b. More exemptions for certain applications will be needed

This might result in an increasingly complex and continually out of date list of products' exclusions and applications' exemptions.

EPEE recognises that the need for increased removal of hazardous materials from the municipal waste stream is an important factor in environmental protection and that an 'open scope' is in line with achieving this objective. In doing so however we also recognise an increasing burden on manufacturers and producers to facilitate the removal.

Therefore if 'open scope' is the desired route EPEE would ask that considerations are given to:

1. Timescale for the implementation of the increased scope
2. Recognition of the current technological limitation through impact assessment
3. Clear methods for creating and managing a list of exemptions
4. Overlap with current existing and developing legislations'
5. Ensure improved market surveillance

This is why EPEE is of opinion that the Commission proposal on the scope should still be considered, where the scope of RoHS is defined in itself and not by reference to the WEEE Directive. This can be a solid step forward in promoting clarity and harmonisation in the single market. EPEE is concerned the idea of an "open scope" supplemented by a list of exemptions might indicate the lack of clarity of the objective of the law and the weakness in properly defining the products within its scope.

The HVAC and Refrigeration industry like other industry sectors has invested significant resources into ensuring that hazardous substances like lead and cadmium have been eliminated from their products covered by RoHS. The priority with the recast should be to make it clearer which products are covered and to enforce the rules in the market place so that both environmental and economic objectives are achieved.

I trust you will find this paper useful and relevant. Should you have any question or need for more information about EPEE, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A. Voigt', with a stylized flourish at the end.

Andrea Voigt
Director General of EPEE