



Mr. Peter Mogens Carl
Director General
DG Environment
European Commission
B – 1049 Brussels

Brussels, 28 March 2008

Review of Directive 2002/95/EC RoHS

Dear Mr. Carl,

In the context of the review of directive 2002/95/EC, your services have contracted the Öko Institut to carry out a study on hazardous substances not covered by the RoHS directive today. In this context, the Öko Institut is currently consulting stakeholders on a questionnaire covering 46 substances.

While we are fully committed to ensuring the safe handling of any substance used in our manufacturing processes or manufactured goods, Orgalime would like to raise a number of concerns related to this study and the present consultation more particularly:

- As expressed in our position of 13 February 2008 on DG Environment's policy options for the review of the RoHS directive, we believe that the review of RoHS must be the transition path of merging RoHS into REACH. We believe specifically that any new substance restriction should be tackled under the REACH framework.
- One of the reasons for our support to the EU's harmonised system of chemicals management REACH has been that the provision of data on substances should be the role of producers of these substances.
- Another reason for our support to REACH has been the firm belief that any restriction of the use of any substance requires a sound and sustainable approach, which takes into consideration proper risk assessment, social and economic factors that are essential in the framework of Better Regulation. The present study, however, is based on the RoHS directive solely, which is not in line with fundamental principles of REACH. We therefore question the consistency of the present approach with REACH, which will inevitably impact its possible outcome.
- The criteria for identifying the 46 substances included in your questionnaire remain unclear to us. We would therefore appreciate more information on these criteria that served as a basis for the establishment of the present questionnaire.
- We have been informed by producers of substances and preparations that:
 - a number of the substances included in your questionnaire are already covered by EU legislation, for example N°s 19, 20, 22, 23, 26, 28, 29, 34, 37 or 44),

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- other substances would not be used in our sector at all (for example N°s 33 or 45) or only in a very limited way (for example N°s 8, 9, 10, 11, 15, 35 or 40).
- Yet other substances would no longer be produced (for example N°24)
- and finally others may be used in processes, however, would not be present in the final product (for example N° 26).
- Finally, according to the EU's own Better Regulation principles, any stakeholder consultation is supposed to run for at least 6 weeks. The timeline for the consultation by the Öko Institut, however, does not respect this. We inevitably are led to question the relevance of trying to provide input for such a study when we understand that DG Environment apparently does not intend to await the outcome of the study to launch its impact assessment on the RoHS review.

Considering that co-decision represents a highly complex and time consuming procedure, Orgalime believes that any modification of substance restrictions under REACH will not lead to limiting the possibility to act in a timely and appropriate manner, while presenting the clear advantages of dealing with substances in a holistic approach rather than in the somewhat limited context of one sector of industry.

We believe that dealing with the same issue under different instruments will only undermine the coherence in policy that REACH is seeking to attain.

A similar letter has been sent to Mr. Zourek, Director General DG Enterprise and Industry. We have also expressed these concerns towards the Öko Institut.

Yours sincerely,

(electronically signed)
Adrian Harris
Secretary General

Cc: Ms. Graff, Mr. Giotakos
Mr. Delbeke, Mr. Mäkela, Mr. Grant Lawrence, Mr. Kögler, Ms. Schomaker, Mr. Van Der Herten, Mr. Papadoyannakis

