

## **Unofficial note of the meeting of the Technical Adaptation Committee on the WEEE & RoHS Directives**

**Brussels, 28 June 2004**

### **Summary**

Commission to submit draft Decision on the RoHS Directive's maximum concentration values. General discussion on a number of 'grey area' products. EICTA position paper on RoHS capacity extensions and upgrades approved in principle. General discussion on data formats for WEEE reporting. Commission gives clarification on producer financial responsibility. Commission outlines procedures for the handling of additional requests for RoHS exemptions.

### **Main points**

#### **Commission Decision on RoHS Maximum Concentration Values**

Following the rejection of the draft Commission Decision establishing the RoHS Directive's maximum concentration values, DG Environment announced that it would now be submitting the current text to the Environment Council for ratification. The Council would then be faced with three options – it could approve the draft Decision by QMV (qualified majority voting); it could reject the draft Decision by QMV; or it could take no action. The last option would mean that the text would effectively be adopted after a three-month period had elapsed. DG Environment hoped to submit the relevant papers to the Council within the next four weeks.

#### **Discussion of Certain 'Grey Area' Products**

A table outlining a number of specific inquiries that the Commission had received on products that may be caught by the scope of both the WEEE and RoHS Directives was discussed and initial conclusions on each inquiry was reached.

The UK pointed out that there was a pressing need to agree the generic guidelines on the scope of the WEEE and RoHS Directives before any further discussions about specific examples could take place. In particular, the UK asked whether the phrase "...provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of this Directive." (WEEE Directive, Article 2.1) applied to the scope of the RoHS Directive. On the basis that the RoHS Directive draws its scope from the WEEE Directive, the UK thought that this phrase **did** apply to the RoHS Directive. The Commission agreed to seek an opinion from its Legal Services and report back to a future meeting of the TAC. As far as the generic guidelines were concerned, the Commission said that there would be further discussion of these.

#### **EICTA Position Paper on RoHS Capacity Expansions and/or Upgrades**

Earlier in the year, EICTA had tabled a position paper on the status of capacity expansions and/or upgrades in relation to equipment put on the market before 1 July 2006. The RoHS Directive does not apply to spare parts for the repair of electrical and electronic equipment put on the market before 1 July 2006. EICTA had argued that a similar derogation should apply to replacement components that expanded or upgraded pre-1 July 2006 equipment. Most Member States agreed with EICTA's position, although one did not. One other Member State felt that the extent to which such a derogation could be utilised should be clarified in supporting guidance. In conclusion, the Commission said that the meeting had generally agreed with the position outlined by EICTA and that this derogation should be approved.

### **WEEE Directive – Clarification on Producer Financial Responsibility**

The Commission noted that one major producer had raised with it concerns about the potential for Member States to take differing approaches to implementation of Article 8 of the WEEE Directive on producers' financing in respect of WEEE from private households. The Commission noted the need for Member States to provide producers with compliance choices for these provisions. There was no subsequent discussion amongst Member States.

### **WEEE Directive – Data Formats**

The Commission's working paper on reporting of figures by member States was discussed. The Commission pointed out that its draft required figures to be reported by product category, rather than by products as in the Directive. The UK commented that the compliance checks should be left to member States to decide. The Commission responded that it could agree to this as long as member States could show that they had adequate measures in place to ensure compliance. The Commission said that it intended to include a reference to work done by TuV, the German compliance organisation - member States would not be obliged to follow this, but would need to notify any differences with this approach. The UK said that it agreed in principle and that the most important outcome was that outputs should be comparable, although flexibility was needed on how this should be counted. One Member State thought that the calculation method should be harmonised and another thought it was important to minimise administrative burdens on businesses. A member State said that it believed that the method needed to be more prescriptive to ensure comparability and that energy recovery, landfilling and material flows in recovery processes should be taken into account. The Commission is to redraft the working paper for the next TAC meeting, which will include criteria for minimum levels of comparability.

### **RoHS Directive – Future Requests for Additional Exemptions**

The Annex to the RoHS Directive contains a number of specific applications of lead, mercury, cadmium and hexavalent chromium that are exempted from its general requirements. Since the Directive had been published, the Commission had received a number of submissions from industry stakeholders requesting exemptions for additional applications. Some of these had been included within the independent technical study that would be launched in July, but others continue to be received.

The Commission had circulated a draft Working Document outlining a potential approach both to those requests that were not included within the study and to any future requests. Member States agreed that this was an extremely useful initiative and the outline of the approach was discussed. A number of proposed amendments to the Working Document arose out of that discussion. The Commission agreed to redraft its Document and circulate a final draft for TAC approval.

### **AOB**

One Member State announced that it was organising a workshop on the selective treatment requirements of the WEEE Directive. This would probably take place in October.

Another Member State reminded the Commission that the TAC had still not agreed on a final definition of 'producer' for the WEEE Directive and that discussion would need to return to that issue.

The UK outlined its plans for a Workshop on the development of supporting guidance for the RoHS Directive's maximum concentration values, particularly on the interpretation of the term 'homogeneous materials'. This Workshop would take place in London on 16 July.

In the margins of the meeting, the UK asked the Commission whether its statement on the RoHS status of Deca-BDE had now been prepared. The Commission said that its position was still being formally finalised with other colleagues that had a direct interest in this issue.

#### **Next TAC**

The Commission announced that the next meeting of the TAC was now confirmed for 20 July and that a further meeting was not now likely before October.

**DTI**

**30 June 2004**