

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

**Brussels, 7<sup>th</sup> April 2009**

## **A. Summary**

Information updates and presentations on the report by the Oko Institut on a review of the RoHS exemptions; presentations on both the latest meeting of the RoHS Informal Network of Enforcement Authorities and on enforcement of RoHS in the UK; discussions on Member State responses to a Commission issues paper on the possible amendment to Annex II of the WEEE Directive; Commission presentation on Member State reporting obligations for WEEE; and an exchange of best practice information amongst Member States on both the waste treatment of fridges and on controls on exports.

## **B. Detail**

### **RoHS Directive (2002/95/EC)**

#### **Information Update**

##### The Oko Institut Review of the RoHS Exemptions

The Commission had launched, in 2007, its review of the Annex of the specific applications of the RoHS substances that are exempted from the general restriction requirements. In October that year, the Commission had asked the Oko Institut, working with Fraunhofer IZM, to undertake a one year study to look at all 29 of these exemptions as the four year review requirement specified in Article 5(1) (c) of the Directive would be reached on 1 July 2010. It had also asked the consultants to look at five new requests from industry for new and additional exemptions.

To take this work forward, the Oko Institut had organised and run three stakeholder consultation exercises and five stakeholder workshops. A final report had been delivered to the Commission in December last year and accepted on 20 February 2009.

The proposed exemptions for WEEE categories 8 and 9 (that have been published as part of the Commission's proposals for a recast RoHS Directive) were not included within the Oko study as these are subject to discussions and negotiations within the Council and the European Parliament under the co-decision process.

Dr Gensch from Oko gave an overview of the report findings and recommendations, which can be downloaded from the Commission's website at [http://ec.europa.eu/environment/waste/weee/studies\\_rohs1\\_en.htm](http://ec.europa.eu/environment/waste/weee/studies_rohs1_en.htm). It had been proposed that the existing 29 exemptions be clarified and revised – some being broken down into more clearly defined, tighter scope

revisions. Most were being put forward for continuation, but the recommendation was that six should be deleted after a short transition period. The Commission had asked Oko to include expiry dates for all exemptions that had been proposed for extension and amendment. On the five new requests for exemptions, Oko was recommending that one be brought forward for vote and one refused. It could not come to a final recommendation on the other three as the consultants found that they could not obtain sufficient information from industry.

An extensive discussion and exchange of view between Member States and the consultants followed. Many Member States were concerned about the mercury in lighting exemptions and asked for clarification about the potential conflict with the EC Regulation that had been agreed on lighting under the EuP framework Directive. It was pointed out to them that here was no conflict because the lighting EuP Regulation did not contain limit values for mercury content but indicative values for information only. One Member State asked about the Deca BDE exemption and was told that it was not considered by the consultants as a consequence of the ECJ court decision in April 2008. A few Member States, including the UK, asked about the rationale for the expiry dates. The UK asked why, with the four year review, was there a need to include them at all. The Commission said that it had asked the consultants to include expiry dates for all exemptions as that was what many Member States had wanted and said in many TAC meetings over the past five years.

On the six exemptions that were being recommended for deletion, the UK asked the consultants how they had come to the recommendations they had. The consultants said that this was a difficult question to answer as the detail varied from case to case, but full supporting evidence could be found in their report.

In concluding the discussions, the Commission invited Member States to submit their views and comments on the Oko report by the 5 May.

#### Presentation by the Commission of two Draft Measures on the Exemptions

The Commission had circulated two preliminary draft measures that would implement and take forward the recommendations of the Oko Institut's report on exemptions.

With the publication of the report on the Europa website only having taken place on 23 March, many Member States did not feel they were in a position yet to be able to discuss the draft measures in any great detail and give a firm view. They asked for another meeting to be convened to take this particular issue forward.

The Commission understood this position and, again, asked Member States to submit views and comments by the 5 May. It would then make a

decision about whether there was a need to hold a meeting specifically on the outcome of the Oko report and take the proposed amendment of the Annex forward.

## **Enforcement**

### 2.1 RoHS Enforcement Authorities Informal Network

The UK secretariat of the RoHS Enforcement Network presented an overview of the meeting that had been held in the Netherlands on 6 November 2008. Thirteen Member States had sent representatives to this meeting, which was hosted by the Dutch Ministry of the Environment and chaired by NWML – the UK RoHS Enforcement Authority.

The meeting had discussed and voted on a Constitution and Terms of Reference for the Network and these had been adopted. There had also been a presentations from the UK Department for Business (BERR) on the New Legislative Framework (RAMS), followed by a discussion on the impact that RAMS would have both on the work of the network and the RoHS Directive itself through the recast proposals. Another discussion on more 'grey area' products had been held. Finally, there had been an update on the recast proposals themselves from the Commission.

The UK secretariat asked more Member States to get involved in the network and send delegates to the next meeting if it was at all possible. It was expected that the next meeting would take place in the autumn.

### 2.2 UK RoHS Enforcement

Chris Smith, from the UK enforcement authority (now known, from 1 April 2009, as NMO – the National Measurement Office), gave a presentation on the way in which it approached RoHS compliance and enforcement issues. Mr Smith described NMO's general approach and the tools the enforcement authority used to implement the Directive's (and, as a consequence, the UK Regulation's) requirements.

Chris gave an overview of UK activities, experience of the past 12 months, known & identified RoHS compliance issues and announced that the latest Annual Report would be available from the RoHS website later that week. (This can now be downloaded from <http://www.rohs.gov.uk>.)

A short, but helpful, discussion followed in which a few other Member States gave an update on inspection and enforcement activities in their own countries.

## **Other RoHS Issues**

3.1 In response to a question from one Member State, the Commission announced that the two Commission Decisions (to, respectively, amend

the RIG exemption and add six new additional exemptions to the RoHS Annex) had attracted a positive vote from Member States last year under the written procedures. These Decisions were now subject to the scrutiny period available to the Council and the Parliament under the extended comitology procedures. That scrutiny period was due to come to an end on 23 April this year.

## **WEEE Directive (2002/96/EC)**

### **4.1 Annex II**

The Commission gave an overview of the responses it had received from Member States on the issues paper it had circulated in December with a deadline for comment of 31 December 2009.

A variety of differing responses had been received but it seemed evident that there was agreement on a way forward with respect to the amendment of Annex II in some areas. Some Member States had thought that these discussions should take place in the context of the negotiations on the recast proposals for the WEEE Directive, but the Commission made it clear that any discussions should take place within the context of the TAC. Member States, therefore, wanted some more time to consider their views and those of others more comprehensively.

The Commission agreed to circulate a summary of all responses received and would then invite Member States to comment within a specified deadline.

### **4.2 Reporting Obligations**

The Commission gave a presentation on the status of reporting and statistics arising from the obligation placed on Member States to submit data covering the years 2005 and 2006 under Article 12 of the WEEE Directive. This showed which particular Member States had met their obligations and targets and those that had not.

The UK had not submitted any data covering these two years as its domestic Regulations (and the establishment of its WEEE infrastructure) had not come into force until the beginning of 2007. It was, however, pleased to report that the separate collection target set in Article 5 of the Directive had already been exceeded. Other Member States gave their views and comments.

### **4.3 Exchange of Member State Best Practice Information**

The Commission asked Member States to provide information to the meeting on their approaches to monitoring fulfilment of the waste treatment requirements of Annex II of the Directive (particularly in the case of refrigerators) and to ensuring that any waste equipment exported

outside the Community for recovery, reuse and/or recycling took place under conditions equivalent to those set out in Article 6 of the Directive.

Many Member States (including the UK) gave their account of the procedures they had in place. There was a particular interest, expressed by some, on exchanging information on the recycling of and markets for waste CRT glass.

### **Other WEEE issues**

5.1 The Commission announced that it had recently published a report on the barriers on electronic commerce as a regulatory burden. This report (SEC 2009/283) had been finalised and published on 5 March 2009.

5.2 The Commission also announced that it was looking into the administrative burdens placed on companies by the requirement in Article 7.3 of the WEEE Directive to keep records on the overall amounts of waste equipment entering and leaving treatment facilities and/or when entering recovery and recycling facilities.

### **Any Other Business**

6.1 The Commission gave an outline of progress on the proposals it had published for a recast of both the WEEE and the RoHS Directives in December 2008. Discussions and negotiations on the texts covered by the recasts would take place in the Council and the European Parliament. A first meeting of the Council Working Group had taken place (under the Czech Presidency) on 9 March. The first meeting of the Environment Committee of the European Parliament to discuss the recasts was expected in September.

6.2 The 'day-to-day' discussions of the implementation and effectiveness of the current Directives would continue in the TAC until the new texts were agreed and had come into force.

### **Date of Next Meeting**

7.1 No announcement was made about a possible date for the next meeting.