

LightingEurope Position Paper on the RoHS Directive Legislative Review

Introduction

LightingEurope represents the lighting manufacturing supply chain. The membership consists of 34 members, both companies that manufacture and supply lamps, luminaires, control gear and other materials and components for lighting products, as well as national associations representing such companies. Together we represent over 1000 companies in Europe, over 100 000 jobs and 20 billion Euro annual turnover.

LightingEurope has engaged with RoHS since its creation (RoHS 1): there are a number of RoHS exemptions specifically addressing lamps, and lighting also benefits from exemptions that address the needs of the wider electronics manufacturing industry. LightingEurope member companies have first-hand experience in managing the review of substances and exemptions under RoHS. Companies have also been managing communications across the supply chain, both upstream and downstream, in order to collect and disseminate accurate information and ensure compliance with RoHS.

Based on our extensive experience and expertise with RoHS, LightingEurope would like to offer the following suggestions on how to improve the legislative framework of this piece of legislation. The Directive must maintain a high-level of protection of the environment and human health, whilst ensuring a reasonable level of burden for the manufacturers and the authorities charged with enforcing the law must be able to offer a high level of protection for users and a level playing field.

Recommendations to improve RoHS

1) **Relevance of RoHS Maintained:** The RoHS Directive is still relevant and should be maintained. LightingEurope does not support proposals to merge RoHS with other legislations, such as for example REACH.

2) **Additional Resources Required:** The European Commission must be allocated additional resources and expertise to manage the review of substances and exemptions under RoHS. The amount of restricted substances and exemptions and the great variety of EEE addressed under RoHS require additional human and financial capacity. Applicants must invest a significant amount of resources to collect and provide detailed data from across their value chain (suppliers and customers). The review of these applications requires time as well as technical and scientific expertise for the consultants

awarded the evaluation contracts. Exemption requests should be finalized in a reasonable timeframe.

3) Impact on Innovation to remain minimal: The level of burden for companies (both manufacturers and users of EEE impacted by RoHS) and any restriction to innovation should be kept to a minimum. This can be achieved with the following improvements in the RoHS process:

- Introduction of stakeholder meetings (such as a consultation forum) to help the Commission have regular exchanges and feedback from stakeholders and Member States on their proposals.
- Allow enough time for the industry to develop and roll out new technology based on alternative substances and align with refurbishment cycles.
- Allow enough time (min 24 months) for the industry to check, once an expiration date has been set or a substance has been restricted, whether there is a need for new exemption requests to be submitted and for the industry to compile an exemption application (also 24 months). A grace period should apply until the European Commission has published its decision.
- Where an exemption is not renewed, a transition period of minimum 24 months will allow companies to implement the alternative technologies/changes, without reducing the level of protection of human health and the environment.

4) Exemption Review Methodology:

- The process and methodology for the decision on exemption applications should be reviewed to also clearly set out how to quantify and evaluate the total environmental and human health benefits of an innovative new technology (i.e one that results in significant energy gains throughout the lifecycle compared to alternatives).
- The process must become much more transparent. The introduction of regular stakeholder consultation fora, as proposed in the point above, will also contribute to this.
- RoHS should not hinder innovation and Europe's potential to access innovative new technologies. This methodology was listed under the objectives of the RoHS Pack 15 project but is unfortunately currently on standstill. Applications for a new exemption that addresses a new application of a restricted substance need to be addressed quickly.
- The methodology should also address the current perverse situation whereby the lack of products on the market is a reason not to grant the exemption: until an exemption is granted, the product cannot be lawfully placed on the EU market and such a contradictory requirement means that Europe and European companies cannot develop and deliver innovative products.

5) Evaluation of Substitute Technologies: The RoHS exemption review process must make allowances for those cases (e.g. non-mainstream lamps and niche applications) where no viable substitute/alternative technology is expected over a reasonable period of time. Such exemptions should be renewed for the maximum period possible (5 or 7 years) and the Commission should put in place a fast-track process to assess whether any substitutes are available, before requiring a full renewal application to be submitted. Any change to the scope of an exemption should be clearly justified.

6) Clear and Simple Rules Needed: Substance requirements in EEE must remain in a single piece of legislation, RoHS. EU regulators should refrain from breaking up requirements across various pieces of legislation, in order to avoid creating confusion on the market. There are many economic operators placing EEE on the EU market, both large

companies and SMEs, EU-headquartered or third country based, and they all need simple clear rules they can understand and comply with.

7) **Overlapping Policies to be Avoided:** LightingEurope has experienced the exact same products being evaluated for a possible phaseout at the same time, but under two separate EU laws, by two separate Commission DGs and two separate consultants (ecodesign for lighting and RoHS mercury exemptions for lamps, Minamata Convention implementation). There are useful lessons and good practices that can be applied in the future to ensure that:

- the Commission DGs and officers meet regularly and collaborate in their evaluation.
- stakeholder input from one process is also made available and evaluated by the other process.
- in the case of delegated/implementing acts, the Commission college speaks with a single voice and sends a single clear message on the fate of these products.

8) **“Repair as Produced Principle”:** The fundamental principle of ‘repair as produced’ must be retained with continued access to spare parts for EEE lawfully placed on the market. LightingEurope notes a number of questions in the ‘citizens’ section of the Commission consultation about the reparability of products. For the scope and objectives of RoHS, only question 16 is relevant and should be considered as part of the current RoHS evaluation. The feedback to this question should be used to demonstrate the need to maintain the fundamental principle of ‘repair as produced’. LightingEurope highlights that many lighting EEE are sold on a business-to-business basis and are used as a component in other equipment. Continued access to compatible spare parts helps to prolong the useful service life of a product, supporting the circular economy principle and avoids unnecessary and unwanted waste.

9) **Impact of RoHS on protecting Health and the Environment:** The European Commission should mandate a separate study to evaluate the impact of RoHS in phasing out substances and in protecting the environment and human health. The consultation questionnaire only asks for stakeholders’ opinions on whether RoHS has had this effect. A detailed study that quantifies the impact of RoHS will demonstrate the added value of RoHS and celebrate its achievements and will also provide a solid basis for assessing how to improve the efficiency and impact of the legislation at the occasion of this review.

10) **National Enforcement:** During the current evaluation, we recommend that the European Commission also engages with member state market surveillance authorities to assess how RoHS has been enforced across the EU member states. An overview of the number of enforcement actions addressing RoHS compliance that took place across Europe in the past 5 years, what the outcomes of these checks were and what challenges authorities encountered when enforcing RoHS, will help identify if and how authorities’ capacity to enforce RoHS can be improved and to set realistic enforceable RoHS requirements at the occasion of this RoHS review.

Contacts

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LightingEurope is the voice of the lighting industry, based in Brussels and representing 34 companies and national associations. Together these members account for over 1,000 European companies, a majority of which are small or medium-sized. They represent a total European workforce of over 100,000 people and an annual turnover exceeding 20 billion euro. LightingEurope is committed to promoting efficient lighting that benefits human comfort, safety and well-being, and the environment. LightingEurope advocates a positive business and regulatory environment to foster fair competition and growth for the European lighting industry.

More information is available at www.lightingeurope.org