



The Director General

Mr. Karl Falkenberg
Director General
DG Environment
European Commission
B – 1049 Brussels

Brussels, 20 February 2012

Directive 2011/65/EC (RoHS2): Guidance FAQ Working Group

Dear Mr. Falkenberg, *da Gau.*

Orgalime welcomes the Commission's and Member States' commitment to work towards a common understanding of Directive 2011/65/EC (RoHS2) through the recently established RoHS2-Guidance-FAQ Working Group. This can be a useful means to avoid a repetition of the somewhat divergent transpositions and applications of the initial Directive 2002/95/EC (RoHS1) by the different Member States, which not only negatively impacted industry's implementation at the time, but also weakened the effectiveness of the Directive.

Orgalime is furthermore committed to constructively contribute to these ongoing discussions with a view to implementing the Recast RoHS Directive (RoHS2) in both a proper and timely manner.

Nevertheless, we are concerned with the recent developments in this Working Group as we feel that several proposals for a future RoHS2-guidance/FAQ-document currently under discussion will not qualify to give advice to Member States and industry for facilitating a harmonised and coherent implementation of RoHS2, but may well lead to a change in both the letter and spirit of the legal text of the RoHS2 Directive.

This is, for example, the case where singling out words of the scope exclusions (such as "large scale") from the context of their entire definitions and introducing arbitrary metrics for the definition of "Large Scale Fixed Installations"/"Large Scale Stationary Industrial Tools", such as the proposed "ISO-20-foot-container-size", risk rendering these legally granted scope exclusions almost entirely void: as even industrial installations (when not installed) can fit into such a container, almost no equipment would qualify for the exclusions. We presume that this is not what was intended.

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In addition, adding on new interpretation criteria that cannot be derived from the legal text (for example; the proposed criteria of being above 375 kW, or of requiring an own power supply or of excluding electrical and electronic equipment with 3 phase plugs from being "large scale") results in modifying the legally defined scope of the Directive.

Finally, we also challenge the Working Group's approach of defining any product, such as furniture or textiles, as "electrical and electronic equipment" as far as they are in some way connected with electrical and electronic equipment, thereby requiring such equipment which is not electrical and electronic equipment to artificially be compliant with all RoHS requirements.

As the future RoHS2-Guidance/FAQ-document is developed and will be published under the responsibility of the Commission, Orgalime asks you to drive the process in this area of fully harmonised EU product legislation to safeguard both the establishment of a high quality guidance document that indeed clarifies relevant implementation issues in accordance with the legal letter and spirit of the Directive and secures a process that is transparent and inclusive.

We thank you in advance for taking these comments into account and remain available for any further information.

Yours sincerely,

and hope to have a good cooperation in the area



Adrian Harris

Cc: Mrs. Blanco
Mr. Burgues
Mr. Eberl
Mr. Brunzema
Mr. Iain Nicol, Rapporteur Working Group

