



Mr Jean-Paul Mingasson  
Director General DG Enterprise  
European Commission  
B-1049 Brussels

Brussels, 19 May 2004

**Decision amending directive 2002/95/EC for the purposes of establishing maximum concentration values for certain hazardous substances in electrical and electronic equipment<sup>1</sup>**

Dear Mr Mingasson,

Orgalime understands that the Commission has requested member states to vote on the Draft decision amending directive 2002/95/EC for the purposes of establishing maximum concentration values for certain hazardous substances in electrical and electronic equipment at the occasion of the next technical adaptation committee meeting scheduled for 10 June 2004.

At this stage of the proceedings, Orgalime would like to stress the importance of taking such a decision without any further delay in accordance with the text proposal tabled during the stakeholder consultation in order to ensure legal certainty for companies. These companies are at present designing, with their suppliers, products, which are to be compliant.

We particularly highlight the necessity of ensuring the following key principles:

- Any such decision must include a **definition of “homogeneous material”** in order to promote an as harmonised as possible a transposition into national law across Europe. Otherwise, the decision would leave open room for interpretation, which would lead to distortion in the internal market and therefore inevitably impact the competitiveness of European industries.
- We strongly believe that ambiguous and unclear criteria, such as **“impurities that are unintentionally/intentionally added”** cannot provide clear and justified guidance to such a decision for industry and should therefore be rejected. Such a criterion would not only be difficult to prove but even impossible to apply. It would therefore bear an unacceptable risk for our industry. Moreover, experiences from the End-of-Life-Vehicles-Directive have shown the unsuitability of any reference to **“intentionally/ unintentionally added”** in the context of technical interpretation of maximum concentration values.

---

<sup>1</sup> **This letter is supported by AQUA, CECED, CITEF and FACOGAZ.**

Orgalime urges regulators to consider carefully these ideas when taking this decision. Both, the manufacturing chain and market surveillance authorities, to our mind, need clarity to provide for compliance and proper market control. In order to provide technical guidance on this issue of vital importance, industry has been joining forces and has elaborated commonly accepted elements for an additional guidance document, which shall be submitted to you shortly.

We would of course be available for further discussions on this matter with you.

A similar letter has been sent to your colleague, Mrs Day.

Yours sincerely,

Adrian Harris  
Secretary general  
*(electronically signed)*

Cc: Mr Zourek, Mr Hennessy, Mr Montoya, Mr Catinat, Mrs Spiliopoulou,  
Mr Papadoyannakis, Mrs Raffaelli