



The Secretary General

Mrs Margot Wallström
Member of the European
Commission
European Commission
B-1049 Brussels

Brussels, 14 July 2004

Directives 2002/96/EC on waste electrical and electronic equipment (WEEE) and 2002/95/EC on the restriction of the use of certain hazardous substances in EEE (RoHS)

Dear Commissioner,

With just a month left before the date when member states are expected to have transposed the above directives into national legislation, our industry is becoming increasingly concerned: not only will very few member states be in a position to respect the 13 August 2004 transposition deadline, but there are still significant issues on which the European Commission and Member States should, in our opinion, have by now achieved a common understanding.

The European electrical and electronics industry¹, which is one of the major manufacturing sectors in Europe with an estimated output of some 518 billion euros per year is a globalised and highly competitive industry, serving both the needs of consumers and of industry. It depends heavily on an international network of producers and component suppliers and therefore requires legislation, which is both timely and clear. To date neither looks like being achieved.

We also believe that it is self evident that for the RoHS directive a fully harmonised approach in all EU member states should be established since it is based on article 95 of the EC Treaty. Also, for the WEEE directive European industry needs as harmonised as possible an approach, so that this legislation does not end up undermining the internal market, one of the prime factors underpinning the competitiveness of our industry. Again, we fear this as harmonised as possible an approach will be difficult to achieve.

In our opinion, the major obstacle to achieving these objectives is the lack of progress by the European Commission and Member States in arriving at a common understanding on a number of key issues, thereby not being in a position to provide firm and unequivocal guidance to those who are expected to implement the directives in the very near future.

This is particularly evident in the following areas:

¹ *Orgalime speaks for 33 trade federations representing some 130,000 companies in the mechanical, electrical, electronic and metalworking industries of 23 European countries. These industries employ some 7 million people and account for 1175 billion euros of annual output, which is a quarter of the EU's output of manufactured products and a third of the manufactured exports of the European Union.*

This letter is supported by AQUA, CELMA, CITEF, COCIR, EFCEM, EGMF, ELC and FACOGAZ.

- The scope of the two directives
- The interpretation of 'the producer' in conjunction with the legal obligations imposed on the different economic operators
- Criteria for compliance with the RoHS directive's substance phase-out requirements
- The evaluation of existing and possible additional exemptions to the RoHS directive (due to technical end environmental reasons which are awaiting the completion of a study²)
- The issue of a European organization to coordinate national registers of producers and common procedures for registration

Besides the lack of progress, we are also concerned about the lack of transparency in the discussions between member states and the Commission in the TAC, from which industry, the major stakeholder, notwithstanding the extensive input³ it has provided, is largely excluded.

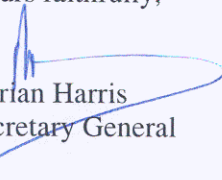
In our opinion, this is not only slowing down the process of transposition of the directives, and their long term sustainability, but is also inevitably jeopardising the electrical and electronics industry's own preparations for implementation of the legislation.

In keeping with the principles of good governance, better regulation and the Environment Council's conclusions of 28 June 2004 that "highlight the priority of achieving full and effective implementation of the existing corpus of EU legislation in relation to waste", Orgalime urges the European Commission and member states to solve the outstanding issues as a matter of utmost priority and to follow a transparent and inclusive process.

We count on the Commission and the member states to provide the necessary impetus and guidance so as to ensure that the transposition of these directives does not end up introducing yet more unworkable legislation for which both consumers and our industry will bear the consequences.

A similar letter has been issued to your colleagues, Mr Bolkestein, Mr Rehn, and Mr Figel.

Yours faithfully,


Adrian Harris
Secretary General

Cc.: Mr Rolf Annerberg, Mr Paul McAleavey, Mrs Anne Bergenfelt
Mrs Catherine Day, Mr Timo Mäkelä, Mrs Marianne Klingbeil and Mrs Anna Passera

² Tender agreed by TAC on 23 June 2003 and published on 24 January 2004 - European Commission, Directorate-General Environment: technical adaptation under Directive 2002/95/EC (2004/S 17-013601).

³ Inter alia: Orgalime Guide "A Practical Guide to Understanding the EC Directives on Waste Electrical and Electronic Equipment (WEEE) 2002/96/EC of 27 January 2003 and on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) of 27 January 2003" of April 2003; Orgalime interpretative guideline "put on the market" of 27 February 2003; Orgalime interpretative guideline on "Maximum Concentration Values of Lead, Mercury, Cadmium, Hexavalent Chromium, PBB and PBDE" of 7 May 2003; Orgalime interpretative guideline on "The scope of the WEEE Directive" of 7 May 2003; Orgalime interpretative guideline of "Hydrocarbons and treatment requirements" of 7 May 2003; Orgalime interpretative guideline of "Scope of the ban of heavy metals" of 7 May 2003; Orgalime position paper "Assessment of the Scope of Directives 2002/96/EC on WEEE and 2002/95/EC on RoHS" of 9 July 2003 updated on 11 September 2003 and updated on 27 October 2003; Orgalime position concerning the marking requirements of article 10(3) and 11 (2) of Directive 2002/96/EC on WEEE of 13 May 2003; Orgalime Reflection Paper "Assessing the interpretation of the producer definition under Directive 2002/96/EC on WEEE of 17 October 2003; Orgalime presentation "Assessing the interpretation of the definition of the producer" of 3 March 2004; Orgalime letter "Decision amending Directive 2002/95/EC on RoHS for the purpose of establishing maximum concentration values for certain hazardous substances in electrical and electronic equipment" of 19 May 2004; Cross industry "Guidance on the implementation of Directive 2002/95/EC on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment" of 24 May 2004; Orgalime contribution to the stakeholder consultation on the "adaptation to the scientific and technical progress under Directive 2002/95/EC for the purpose of a possible amendment of the annex" of 5 July 2004.