Stakeholder consultation on exemption request evaluation under Directive 2011/65/EU

1. Introduction

The RoHS Directive (2002/95/EC) (RoHS 1) has been recasted and has now become Directive 2011/65/EU that entered into force on 21 July 2011, repealing Directive 2002/95/EC on 3 January 2013. Directive 2011/65/EU is available here: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011L0065:EN:NOT.

The European Commission has appointed the Oeko-Institut and Fraunhofer IZM[1] to technically assist in reviewing the requests for exemptions from the substance restrictions of Directive 2011/65/EU (RoHS 2). The exemption requests have to be evaluated against the criteria for exemptions in Art. 5(1)(a).

This consultation is run by Oeko-Institut together with Fraunhofer IZM on behalf of the European Commission, with the purpose to collect stakeholder contributions, under http://rohs.exemptions.oeko.info/index.php?id=307. Please note that the role of Oeko-Institut and Fraunhofer IZM is only to collect and evaluate the information provided by stakeholders with a goal to provide the Commission with a recommendation on an exemption's justification. Any decision making, however, is the sole responsibility of EU institutions.

Neither the fact that a stakeholder consultation is being launched, nor the results of this stakeholder consultation should be interpreted as a political or legal signal that the Commission intends to take a given action.

2. Consultation scope

The scope of the current consultation concerns six requests for exemptions: three for renewal of existing exemptions and three for new exemptions, as shown in the table 2-1 below.

Three applications were submitted under the project "Pack 15", including two for the renewal of exemption 39a of Annex III from two different applicants and a third request for a new exemption, concerning similar applications. Since these three requests all concern cadmium in quantum dot applications, they shall be consulted jointly and shall be addressed under the page "Cd Quantum-Dot Joint Evaluation".

The other three applications are being evaluated under the project "Pack 17". Two of these are requests for new exemptions. The third request was addressed in the project Terms of Reference as a request for an amendment of Ex. 31a of Annex IV. The requests of both packages are to be consulted upon together, under the current stakeholder consultation.

Oeko-Institut and Fraunhofer IZM – on behalf of the European Commission – has published the requests as worded by the applicant, therefore the applicant is solely responsible for the wording and supporting evidence it has provided.

[1] Contract is implemented through Framework Contract No. ENV.A.2/FRA/2015/0008 led by Oeko-Institut

Table 2-1: RoHS exemption requests covered by this stakeholder consultation

	No.	Wording according to the terms of reference	Applicant
Pack 15			
Exemptions renewal	Annex III, Ex. 39a, applicant -1	Cadmium selenide in downshifting cadmium-based semiconductor nanocrystal quantum dots for use in display lighting applications (< 0,2 µg Cd per mm2 of display screen area)	OSRAM
	Annex III, Ex. 39a, applicant -2	Cadmium selenide in downshifting cadmium-based semiconductor nanocrystal quantum dots for use in display lighting applications (<0.1 µg per mm2 of display screen area)	Najing technology Co.Ltd
New exemption	Ex. Re. 2018-1	Cadmium (<1000 ppm) in luminescent material for on-chip application on LED semiconductor chips for use in lighting applications of at least CRI 80	Lighting Europe
Pack 17			
Exemption renewal	Annex IV, 31a	Bis (ethylhexyl) phthalate, Dibutyl phthalate, Di-isobutyl phthalate and Benzyl butyl phthalate in spare parts recovered from and used for the repair or refurbishment of medical devices, including in vitro diagnostic medical devices, and their accessories, provided that the reuse takes place in auditable closed-loop business-to-business return systems and that each reuse of parts is notified to the customer	COCIR
New exemptions	Ex. Re. 2019-1	Bis-(ethylhexyl) phthalate (DEHP) in ion selective electrodes for point of care analysis of ionic substances in human body fluids	COCIR
	Ex. Re. 2019-2	Bis-(ethylhexyl) phthalate (DEHP) in plastic strain relief devices used to prevent damage to cable connections to MRI imaging coils	GE Healthcare

3. How to submit a stakeholder contribution

The following general guidelines should be taken into account:

- Refer to the exemption request listed in Table 2-1 and have a clear reference as to the exemption number.
- Take the **questionnaires** on the exemption requests into account (questionnaires available under the exemption request specific pages, accessible through the following link: http://rohs.exemptions.oeko.info/index.php?id=307 -> select exemption through the tabs on the left).
- Clearly state whether the exemption requests are supported or whether no justification is apparent. To support your contribution, it is required to **provide relevant technical and scientific evidence** in accordance with the criteria listed in Article 5(1)(a). Explain the reasons why potential alternative materials, designs or processes are unsuitable with quantitative data wherever possible. If possible, **provide photographs or diagrams** to illustrate claims. Provision of third party

data and information may be beneficial to further support your view. **Sources of information** should be referenced where possible.

- Provide your input to the consultation as early as possible in order to allow other stakeholders to comment.
- Exemptions to the RoHS Directive cannot be justified on the basis of confidential information. Should you wish such information to be used as a justification for an exemption, you need to give explicit agreement to the Commission and the project team to disclose the relevant information on their website.
- Nevertheless, comments shall be clearly marked **"NOT FOR PUBLICATION"** if they are not to be posted as comments on the consultation website. Please also refrain from submitting confidential and non-confidential information mixed in one document!
- Please refrain from submitting several identical comments in order to support a position / comment. It is more useful and efficient to include a cover letter stating that a submission is supported by several parties.
- Submit **compact and comprehensive information** instead of very large and extensive documentation. It will facilitate formulating the need for further information.
- It shall be noted that generic comments, statements, position papers and any additional request for exemptions will not be taken into account.
- **Do not submit new exemption requests.** New exemption requests as well as questions or remarks concerning results of former evaluations have to be addressed to the European Commission directly.
- Please be aware that it might be necessary to give a negative recommendation if important information is missing.
- Always include **your contact details** (or of the person responsible for further contact with name, organisation, email and phone number). The evaluation procedure will normally lead to further questions which we need to address to you directly.
- If you submit documents in **PDF-formats**, please make sure that text can be marked and copied selectively from these documents in order to avoid retyping (which is a possible source of mistakes) when summarising your arguments for the review report.

Interested parties are invited to send their comments by e-mail, at the latest on **13 May 2019**, to rohs.exemptions@oeko.de or by post to:

Oeko-Institut e.V.

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Germany

Responses submitted electronically will be posted on this web site as they are received, unless respondents specifically request that their contribution should not be published. In the latter case, responses should be clearly and visibly marked with the words **"Not for publication"**.