ROHS UMBRELLA INDUSTRY PROJECT CONTRIBUTION TO THE CONSULTATION ON

Document 2023/0454 (COD) – Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/65/EU of the European Parliament and of the Council as regards the re-attribution of scientific and technical tasks to the European Chemicals Agency

On behalf of the Company/Business organizations/Business associations listed below participants in the RoHS Umbrella Industry Project ("the Umbrella Project"):

European garden machinery industry federation EU Transparency Register ID number: 82669082072-33	The European Steel Association EU Transparency Register ID number: 93038071152-83	UK suppliers of Instrumentation, Control, Automation & laboratory equipment	Interconnect Technology Suppliers Association
BEAMA Ltd EU Transparency Register ID number: 20211077852-36	Lighting Europe EU Transparency Register ID number: 29789243712-03	The European Federation of Locks and Building Hardware Manufacturers EU Transparency Register ID number: 881365536049-72	Orgalim EU Transparency Register ID number: 20210641335-88
European General Galvanizers Association EU Transparency Register ID number: 634416015579-93	European Partnership for Energy and the Environment EU Transparency Register ID number: 22276738915-67	Knowles – Precision Devices	Communications and Information Network Association of Japan (CIAJ)
Japan Analytical Instruments Manufacturers' Association (JAIMA)	Japan Business Council in Europe (JBCE) EU Transparency Register ID number: 68368571120-55	Japan Business Machine and Information System Industries Association (JBMIA)	Japan Electric Measuring Instruments Manufacturers' Association (JEMIMA)

Japan Electrical Manufacturers' Association (JEMA)	Japan Electronics and Information Technology Industries Association (JEITA)	The Japan Federation of Medical Devices Associations (JFMDA)	Japan Inspection Instruments Manufacturers' Association (JIMA)
Japan Land Engine Manufactures Association(LEMA)	Japan Lighting Manufacturers Association (JLMA)	Japan Measuring Instruments Federation (JMIF)	Japan Medical Imaging and Radiological Systems Industries Association (JIRA)
Nippon Electric Control Equipment Industries Association (NECA)	Japan Auto Parts Industries Association (JAPIA)	The European Association of Internal Combustion Engine and Alternative Powertrain Manufacturers EU Transparency Register ID number: 6284937371-73	ZVEI e. V. • German Electro and Digital Industry Association EU Transparency Register ID number: 94770746469-09
European Semiconductor Industry Association EU Transparency Register ID number: 22092908193-23	MedTech Europe EU Transparency Register ID number: 433743725252-26	IPC International, Inc. EU Transparency Register ID number: 390331424747-18	DIGITALEUROPE EU Transparency Register ID number: 64270747023-20
COCIR – European Coordination Committee of the Radiological, Electromedical and Healthcare IT Industry EU Transparency Register ID number: 05366537746-69			

Under the Umbrella Project (currently consisting of 73+ industry associations globally) applications for renewals were submitted within the specified RoHS timeframes for:

- Pack 22 Exemptions # 6(a), 6(a)-I, 6(b), 6(b)-I, 6(b)-II, 6(c), 7(a), 7(c)-I and 7 (c)-II
- Pack 23 exemptions #4(f), 8(b), 8(b)-I, 13(a)&13(b)/13(b)-(I)/13(b)-(II)/13(b)-(III), 15/15(a)
- Pack 24 exemption #34 of RoHS Annex III.

The Umbrella Project has also been heavily involved in the evaluation process, providing continual support to the European Commission and the consultants throughout the preparatory stages, stakeholder consultations, and beyond. We appreciate the ongoing collaborative approach.

For the assessment of renewals of existing exemptions, RoHS article 5 is the most relevant. As this is the core topic of the Umbrella Project, we have decided to focus our comments on the proposed amendments to this article and, in addition, give one comment on article 6.

We welcome the proposal that a clear process and timeline is defined for the work of ECHA and especially the process step defined in Article 5, paragraph 4a(d) that will allow the applicant the opportunity to comment within 4 weeks of the communication of the draft.

The new paragraph 8 of article 5 will require ECHA to provide a harmonized format and comprehensive guidelines for applications.

The Umbrella Project applied for renewal of the exemptions mentioned above in January 2015 (for those expiring in July 2016) and then again in January 2020 (for those expiring in July 2021). In the application processes (which included questionnaires of the consultants, stakeholder interviews and stakeholder meetings), we gained extensive experience about the technical assessment of the exemptions. We would like to highlight some the issues we found in considering the proposed changes of article 5 to support the finalisation and implementation of the proposed amending directive:

- The existing guidance available at EU Commission´s site on the Implementation of the RoHS Directive is fully understood and supported by the Umbrella Project. Changes, especially to the understanding of the Criteria and Additional Parameters, would be less beneficial at this point. If such changes are to be made, we would stress that it is very important to give stakeholders and interested parties the opportunity to provide comments on them.
- During the multiple assessment steps involved in the renewal of the named exemptions, we realised that allowing communication only in writing is not always totally effective. This is particularly the case when stakeholders give conflicting information to the stakeholder consultation (amended article 5 4(f)). Members of the Umbrella Project have experienced situations where, (during the written stakeholder consultation) some respondents have made a strong claim, which has been subsequently shown after additional scrutiny by the consultant to have been made without sufficient evidence to support it even when those making the claims have been given further opportunities to provide additional evidence in writing afterwards.
  An online meeting with representatives of the European Commission, consultant and stakeholders provided the required clarifications. Based on this experience we recommend adding a further step to set up a meeting of interested parties whenever appropriate and particularly when contradictory information is received during procedural step under paragraph 4, point (f). This could be added to paragraph 4a(c). A possible wording is:

c. *may request the applicant or third parties to submit, within a specified period, additional information and shall, whenever appropriate, set up a meeting of applicants and/or interested parties particularly if contradictory information is received during the procedural step under paragraph 4, point (f)´*

On the proposed changes of article 6 we would like to make the following comment:

The proposed new article 6a(4) requires the agency to maintain a list of substances for which a restriction dossier conforming to the requirements of Article 6(2) is planned or underway by either the Agency or a Member State. While this list will be very helpful, in our understanding the minimum time between the inclusion of an activity in this list and the start of the stakeholder consultation is not defined. As the preparation of the dossier could take a maximum of 12 months and the duration of the stakeholder consultation is limited to 4 months, we would like to point out that the minimum 4 to maximum 16 months period would often be too short to generate sufficient data quality on the aspects of RoHS article 6(1). For example, an investigation into releases into the environment (article 6(1)(b)) will often entail the undertaking of long-term studies. Accordingly, we would like to request that you should define a time period of at least one year between the inclusion of an activity in the list according to article 6a(4) and the start of the stakeholder consultation according to article 6a(6).