

2 February 2010

JOINT STATEMENT ON SUBSTANCE RESTRICTIONS

There are a number of EU laws and policy initiatives that seek to or have the potential to introduce substance restrictions in ICT and consumer electronics products. A non-exhaustive list is as follows:

- RoHS Directive
- REACH Regulation
- Battery Directive
- Green Public Procurement (GPP)
- Fluorinated Gases Regulation
- Energy-related Products Directive

One of the characteristics of our global industry is its complex worldwide supply chain. RoHS has been in place for a number of years and we have gained extensive experience in both complying with the law and helping Member States to enforce the rules within the European Union. There is no question that RoHS set the benchmark. Our industry continues to support the goals and objectives of the Directive. The 'recast' of the Directive offers a good opportunity to make the rules simpler, easier to comply with and to enforce.

The current recast of the RoHS Directive however, also highlights an emerging concern that there is the potential for differences in approach to substance restrictions across several pieces of EU regulation which could also have a global impact. The Commission proposal recommends using the relevant provisions of the REACH Regulation as the basis for evaluating whether or not an additional substance is banned under RoHS. The proposal suggests a REACH-type methodology that should be applied to the RoHS context. During initial first reading discussions, there have been calls for additional substance restrictions. We endorse the need to introduce substance restrictions where appropriate. Yet, the process and methodology have not yet been defined.

As long as evaluation and impact assessment have taken place, we would endorse additional substance bans (if appropriate methodology is used and a robust exemption mechanism is in place).

DIGITALEUROPE recognizes that not all legislation managing substance restrictions (such as RoHS / Battery Directive) are included in the scope of the REACH Regulation. We are of

the opinion that all further substance restrictions should be justified scientifically by using a methodology which is in line with the REACH methodology.

Methodology

REACH is intended to serve as the overall legislation to manage substances and preparations within the EU for the purposes of protecting human health and the environment. It includes the management of substances both in articles and preparations. So, in principle all substances under consideration to be restricted should be evaluated using REACH methodology.

1) Any new substance restriction must be proportional and needs to consider the health, environment, commercial and social impact including but not limited to

- Health & environmental impact of alternative solutions
 - Impact to product cost
 - Availability of alternative solutions
 - Performance and quality
 - Documented reliability / safety concerns
 - Product use
 - Competition issues in case alternative solutions are limited
- * Due to resource constraints
 - * Legal restrictions such as patents
 - * Discriminatory effects in respect of significant cost increases

2) Restrictions should be specific to an identified and measurable hazard and risk associated with the use of a substance in a specific application across the entire life cycle of the product.

3) Restrictions and/or minimum concentration limits must be verifiable using scientifically validated methods; and consistent across jurisdictions and standards

All legislation and community wide guidelines governing substance restrictions [such as GPP and ecolabel criteria], should be aligned with the principles established in REACH and they should not conflict with existing legislation, even if they can go further for specific product groups than legislation which targets entire sectors or product groups.

Need for Global Harmonisation

Due to the complex worldwide supply chain of its members and the proliferation of similar and sometimes different rules and requirements in some 15 plus jurisdictions outside the

European Economic Area, DIGITALEUROPE welcomes and promotes global harmonization wherever possible. This includes:

- the development and use of global standards to guide principles of selection, testing and management of substances
- globally harmonized product design, consumer notice, labeling and enforcement requirements
- globally harmonized testing, certification and documentation standards (i.e., no country-specific tests, labs, certifications or paperwork) based on producer self-declaration

Transition Periods

In order to allow industry sufficient time to comply with new substance restrictions a suitable transition period needs to be established depending on the impact, usage and equipment/technology affected on a case by case basis. However, in view of the experience with the RoHS Directive we would in general recommend a minimum transition period of not less than 42 months for newly introduced substance restrictions. In the specific case of RoHS exemptions, i.e. in the context of already existing substance restrictions, we would recommend a minimum transition period of not less than 18 months for substance restrictions, after official publication that an exemption is withdrawn.

Exemption Process

An exemption application process should be provided to allow for uses of restricted substances in applications where current substitution is not technically or economically feasible, including novel uses (i.e., advances in technology) –of substances.



ABOUT DIGITALEUROPE

DIGITALEUROPE, the organisation formerly known as EICTA, is the voice of the European digital technology industry, which includes large and small companies in the Information and Communications Technology and Consumer Electronics Industry sectors. It is composed of 62 major multinational companies and 42 national associations from 29 European countries. In all, DIGITALEUROPE represents more than 10,000 companies all over Europe with more than 2 million employees and over EUR 1,000 billion in revenues.

ABOUT JBCE

The Japan Business Council in Europe was established in 1999 as the representative organisation of Japanese companies operating in the European Union. Our membership consists of more than 60 leading multinational corporations that are active across a wide range of sectors, including electronics, automotive, and chemical manufacturing.

The key goal of JBCE is to contribute to EU public policy in a positive and constructive way. In doing this, we can draw upon the expertise and experience of our member companies.

ABOUT TECHAMERICA EUROPE

TechAmerica Europe (formerly AeA Europe) represents leading European high-tech operations with US parentage. Collectively we invest Euro 100 bn in Europe and employ approximately 500,000 Europeans. TechAmerica Europe Member companies are active throughout the high-technology spectrum, from software, semiconductors and computers to Internet technology, advanced electronics and telecommunications systems and services. Our parent company, the TechAmerica (formerly AeA and ITAA), is the oldest and largest high-tech association in the US.