BUREAU EUROPEEN DE L'ENVIRONNEMENT ■ EUROPEAN ENVIRONMENTAL BUREAU ■ EUROPEES MILIEUBUREAU ■ EUROPAISCHES UMWELTBÜRO
UFFICIO EUROPEO DELL'AMBIENTE ■ OFICINA EUROPEA DEL MEDIO AMBIENTE ■ SECRETARIADO EUROPEU DO AMBIENTE
EUROPÆISK MILJØSEKRETARIAT ■ ΕΥΡΩΠΑΙΚΟ ΓΡΑΦΕΙΟ ΠΕΡΙΒΑΛΛΟΝΤΟΣ ■ EUROPEISKA MILJÖORGANISATIONERS SEKRETARIAT
DET EUROPEISKE MILJØBYRÅ ■ EUROOPPALAINEN YMPÄRISTÖTOIMISTO ■ EVROPSKI OKOLJSKI URAD ■ TAQSIMA AMBJENTALI EWROPEJA
EVROPSKÝ ÚRAD PRO ŽIVOTNÍ PROSTŘEDÍ ■ EUROPEJSKIE BIURO OCHRONY ŚRODOWISKA ■ EURÓPAI KÖRNYEZETVÉDELMI IRODA
EURÓPSKY ÚRAD PRE ŽIVOTNÉ PROSTREDIE ■ EUROPOS APLINKOS BIURAS ■ EIROPAS VIDES BIROJS ■ EUROOPA KESKKONNABÜROO

Mr. Janez Potočnik, European Commissioner for the Environment
European Commission
Rue de la Loi 200
B- 1049 Brussels

Brussels 22 July 2013

RE: European Environmental Bureau's comments on RoHS 2 Directive

Dear Commissioner Potočnik,

We are compelled to register our deep concerns regarding the newly developed RoHS2 "Methodology Manual" developed by industry stakeholders under the coordination of the Austrian Umwelbundesamt on the way forward to select substances for future restrictions that has now been completed and submitted to the Commission, as it fails to address the most urgent environmental and human health issues facing the electronics industry.

In 2011, the Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (EEE) was updated (EU Directive 2011/65/EU "RoHS2") to require that, prior to restricting additional substances, a review must be conducted, based on a thorough assessment of available scientific and technical information. Unfortunately, as outlined below, this methodology manual is failing to properly identify and assess very significant substances for potential restriction under RoHS. This is undermining the ability of the RoHS Directive to effectively protect human health and the environment.

1. The prioritization scheme does not take into account the most important substances and group of substances of concern in electronics today.

The main environmental and social justification for the RoHS Directive is the need to reduce the content of hazardous substances in waste through restricting the use of such substances in products. Through this, RoHS2 can effectively contribute to the protection of human health and the environment through the sound recovery and disposal of waste electrical and electronic equipment (WEEE), as specified in Article 1 of RoHS2.

Brominated Flame Retardants (BFRs), Chlorinated Flame Retardants (CFRs) and Poly-Vinyl Chloride (PVC) are the most important substances of concern in electronics today. If the prioritization scheme does not select BFRs/CFRs and PVC for a detailed assessment (in Part III), it is an indicator that the prioritization scheme developed is flawed and needs to be revised.

The current methodology, released earlier this month, does not prioritize the problem of waste when evaluating PVC plastic and BFRs or CFRs. In the proposed methodology, despite the fact that PVC and organohalogens have been identified as being of highest waste relevance, they have not been selected for detailed assessment.

This methodology and additional criteria developed within are not in accordance with the official review methodology and criteria set in Article 6 of RoHS2 . According to the provisions of the RoHS2, the European Commission shall take special account of whether "*a substance, including substances of very small size or with a very small internal or surface structure, or a group of similar substances*":

- could have a negative impact on EEE waste management operations, reuse and recycling,
- could give rise to uncontrolled or diffuse release, hazardous residues / transformation or degradation products,
- could be replaced by substitutes or alternative technologies.

Further the review methodology requires explicit consideration of certain information (information on use, detrimental effects and exposure during waste EEE management operations, substitutes and a socio-economic assessment).

2. The ability to form transformation products must be one of the criteria for selecting substances to be evaluated for inclusion in annex II, even if the substance is not classified as hazardous.

Transformation products are not considered, yet these are of major importance. This is particularly important for PVC and BFRs/CFRs which are known to generate chlorinated and brominated dioxins when incinerated or burned. Recital 6 in the Directive underscores the importance of eliminating dioxins and furans and Article 6(b) in the Directive explicitly states that a substance or substance group that *"… could give rise, given its uses, to uncontrolled or diffuse release into the environment of the substance, or could give rise to hazardous residues, or transformation or degradation products through the preparation for reuse, recycling or other treatment of material from waste EEE under current operational conditions*" should be taken special account of when reviewing the relevant Annex. On that basis, the methodology manual needs to be corrected and brought in conformity with the Directive.

3. The reality of sub optimal conditions for large parts of WEEE handling must be taken into consideration

The European Commission recognises the quantities of WEEE recycled and disposed of outside the EU, including using substandard waste management conditions, and that potential risks associated with the presence of hazardous substances in EEE are "further increased by sub-standard recycling/recovery operations" (p. 4 of explanatory memorandum to the Proposal for a Directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment[1]). A recent report of the EEA confirms that concern, indicating that about 250.000 tonnes per year of WEEE are shipped outside the EU which are processes in dangerous and inefficient conditions, harming the health of local people and damaging the environment[2].

Whilst the Commission has proposed to address the illegal export with additional enforcement measures in the WEEE revision, it is not reasonable to assume that these will be fully effective given the strong market values of many materials contained in WEEE, and the cheap labour resources available in many countries, particularly in Asia and Africa. Thus it is imperative that RoHS2 addresses the reality of the impacts of substances used in EEE in the sub-standard recycling/recovery practices both within the EU and also in other regions. The policy goal of the Directive is to protect human health and the environment at the global level and thus should capture all WEEE streams, irrespective of whether waste treatment operations are according to EU standards.

Furthermore, it is now documented that chlorinated materials and brominated materials can generate mixed chloro/bromo dioxins.[3] The urgency to address transformation products from PVC and BFRs/CFRs in the current methodology is paramount.

Yours sincerely,

Jeremy Wates,
Secretary General

CC:
Mr. Björn Hansen, Head of Unit, Chemicals, Biocides and Nanomaterials
Mr. Julio Garcia Burgues, Head of Unit, Waste Management & Recycling
Mr. Hans-Christian Eberl, Waste Management & Recycling Policy Officer
DG Environment, European Commission.

[1] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0809:EN:NOT)
[2] See EEA technical report 7/2012 of 6 November 2012 http://www.eea.europa.eu/publications/movements-of-waste-EU-2012
[3] http://www.greenpeace.to/publications/mixed-dioxins-furans-background-2009.pdf

EUROPEAN ENVIRONMENTAL BUREAU (EEB) | BUREAU EUROPEEN DE L'ENVIRONNEMENT (BEE) Federation of Environmental Citizens' Organisations
Boulevard de Waterloo 34 | B-1000 Brussels | Belgium | Tel.: +32 2 289 1090 | Fax: +32 2 289 1099 | E-mail: eeb@eeb.org
Websites: www.eeb.org, www.ecotax.net, www.participate.org, www.chemicalreaction.org