

Guideline for a stakeholder consultation on exemption request evaluation under Directive 2011/65/EU

1 Introduction

The RoHS2 Directive (2011/65/EU) entered into force in 2011. The text of the Directive is available here: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011L0065:EN:NOT>. The Directive restricts the use of certain hazardous substances in electrical and electronic equipment, but allows for granting exemptions on the basis of an application. The EU Commission has the mandate to decide on the exemptions, by means of including the relevant materials or components into the Annexes of RoHS2 Directive.

Against this background, BiPRO GmbH has been commissioned by the European Commission (EC) to evaluate two applications for granting new exemptions. This includes to technically assist the Commission in evaluating whether the criteria for exemptions apply or not. To this end, Article 5(1) (a) of RoHS Directive sets out that the relevant materials or components shall be included into the Annexes if such inclusion does not weaken the environmental and health protection afforded by REACH Regulation and where any of the following conditions is fulfilled:

- their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to listed in Annex II is scientifically or technically impracticable;
- the reliability of substitutes is not ensured;
- the total negative environmental, health and consumer safety impacts caused by substitution are likely to outweigh the total environmental, health and consumer safety benefits thereof.

Please note that the role of BiPRO GmbH 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.

European Commission

07.0203/2016/731286/ENV/ETU.A2

2 Consultation scope

The scope of the current consultation concerns two requests for new exemptions as shown in the table below.

BiPRO GmbH – on behalf of the European Commission – has published the requests as provided by the applicant, therefore the applicant is solely responsible for the wording and supporting evidence he has provided.

Table 1: RoHS exemption requests covered by this stakeholder consultation

No.	Initially proposed wording	Applicant
Requested granting of a new exemption		
A-2016	Cadmium in video cameras designed for use in environments exposed to ionising radiation with a dose rate in excess of 100Gy/hour and a total dose in excess of 100KGy with a centre resolution greater than 450 TV Lines	Mirion Technologies
B-2016	Lead and cadmium in recycled PVC profiles (windows and doors)	EuroWindow AISBL, EPPA (European PVC Window Profile and Related Building Products Association)

3 How to submit a stakeholder contribution

The following general guidelines should be taken into account:

- Always include your contact details (or of the person responsible for further contact) with name, organisation, email and phone number. The evaluation procedure will often lead to further questions which we need to address to you directly.
- Refer to the exemption request listed in Table 1 and clearly reference to the exemption number.
- Besides the original exemption request, please also take into account the clarification questions on the exemption requests answered by the applicants that include some additional information (see [here](#) under A-2016 “Additional information provided after questions for clarification” respectively under B-2016 “Additional information provided after questions for clarification”).
- Take the stakeholder specific questionnaires on the exemption requests into account (see [here](#) under A-2016 “Stakeholder Questionnaire 2016-3” respectively under 2016-4 “Stakeholder Questionnaire B-2016”).
- Clearly state whether the exemption requests are supported or whether no justification is seen. To support your comment, it is needed to provide relevant technical and scientific evidence in accordance with the criteria listed in Article 5 (1) (a) of RoHS2 Directive 2011/65/EU. 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 RoHS2 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.
- 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.
- Please note that if you wish to be regularly updated and receive notifications for on-going RoHS activities, you shall register as a stakeholder [here](#).

Interested parties are invited to send their comments by e-mail to rohs.exemptions@bipro.de or by regular mail to:

BiPRO GmbH,
Attn Ms Marie Dollhofer,
Grauertstraße 12
D-81545 München

Responses submitted electronically will be posted on the CIRCABAC website 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".