



Beryllium Science & Technology Association

2 April 2020

European Commission
Environment DG
B- 1049 Brussels
Belgium

Ref: Supporting evidence for the study supporting the Evaluation of Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive)

To Whom It May Concern:

The Beryllium Science and Technology Association (BeST) is very interested in the work that the Commission is doing and is glad to participate in the RoHS Directive review. We appreciated the chance to participate in the stakeholder webinar, held on 30 March 2020, and to have the chance to discuss the results of the preliminary findings of the study supporting the ongoing RoHS evaluation with the Commission, Member State ministries and other industry stakeholders.

While the structure of the webinar was clear and we appreciate that every participant was given the opportunity to share comments by chat or speaking, there are some points that we regret were not addressed during the meeting. We would like to outline these here.

International Outlook

While we agree that RoHS must be coherent with other EU legislation, we think the conversation on coherence and actions for creating a level playing field internationally must be taken further.

As stated in our survey response, we would like to underline the importance of international alignment of policies, including the use of hazardous substances. The EU should not adopt policies that would merely shift economic activity to other parts of the world. Compliance with EU legislation should be obvious for manufacturers who sell in the EU, whether they are based in the EU or third countries.

Moreover, we stress that the EU institutions should be more proactive in avoiding inappropriate duplication of RoHS outside of the EU. We believe that international alignment is needed to guarantee a level playing field and to protect the environment and human health everywhere in the world. Countries exploring the creation of their own RoHS regulation often adopt old versions of RoHS proposals. For example, a number of substances that have not been recommended to be restricted in the EU following recent RoHS evaluations appear to be under consideration for restrictions in a Bangladesh RoHS-like regulation. This creates confusion and inconsistencies in the marketplace, along with overly burdensome compliance requirements for industry. Therefore, international alignment is needed and we urge the Commission to share its experience and address these inconsistencies between international jurisdictions. Several stakeholders raised the Bangladesh issue during the webinar but did not receive a response to their concerns.

Coherence and Certainty for Industry

First, we are concerned with the indirect results of repeated assessments, as is currently allowed under RoHS. As an example in our industry, beryllium has been evaluated four times since the inception of the RoHS Directive and in each case it was determined that it was not necessary or prudent to restrict its use in EEE. Multiple assessments, however, has raised uncertainty as to the long-term and beneficial use of beryllium in EEE. We therefore, like many other stakeholders expressed during the webinar, strongly underline our support for the 'one substance, one (risk) assessment' principle. Beryllium was subject to an extensive Risk Management Option Analysis (RMOA) under REACH and a socio-economic impact assessment as part of the legislation setting an EU-wide Binding Occupational Exposure Level (BOEL). Until such time that scientific and market data significantly change, this assessment should be re-used as much as possible to avoid unnecessary work and provide legal certainty with the EEE industry.

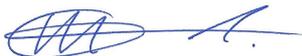
Second, again drawing on the importance of coherence, we would like to ask what the Commission does to ensure that a substance is not restricted under RoHS if the same substance is essential to achieve other EU policies. These include ensuring product safety, enabling renewable energy and improving durability, repair and reuse. Some substances are used in EEE due to a unique combination of properties that are required in high performance and reliable applications. Restrictions on these substances can have a negative effect on innovation and their forced substitutions can result in failures in critical applications in the aerospace, medical, defense, automotive and communication industries. Furthermore, industry can be left in limbo if the substances with which they work are simultaneously required and restricted.

As mentioned by another stakeholder during the webinar, some substances evaluated under RoHS, including beryllium, are Critical Raw Materials (CRMs) for the EU due to their supply risk, economic importance and unique properties. This should be considered in the external coherence analysis. To assist the European Commission in developing its internal coordination, we have attached a paper produced by the CRM Alliance highlighting inconsistencies in EU policies.

Lastly, we note that appropriately enforced occupational safety and health regulations related to worker exposure to hazardous substances are adequate to safeguard workers in all industrial sectors including manufacturing, waste management and recycling sectors. It is not necessary for the European Commission to utilize RoHS as a secondary legislative instrument to further control the workplace.

We remain at your disposal to discuss the above-points and for any further assistance.

Yours Sincerely,



Maurits Bruggink
Director EU Affairs
Beryllium Science & Technology Association

BeST– The Beryllium Science and Technology Association – represents the suppliers of beryllium metal, beryllium-containing alloys and beryllium oxide ceramics in the EU market and has the objective of promoting sound policies, regulations, science and actions related to the use of beryllium as well as promoting good practices in the workplace, in order to protect workers handling beryllium-containing materials.