



Brussels, 13 February 2006

## **To the Attention of the members of the EU Technical Adaptation Committee (TAC) on WEEE/RoHS**

EICTA, the voice of the European digital technology industry, would like to bring to your attention the following critical issues in relation to the RoHS Directive and the WEEE harmonisation of registers. We ask the Member States and Commission to address these issues at the TAC meeting scheduled on February 15th. With only 5 months to implementation, it is critical that Industry gets clarification on industry concerns and proper guidance in the near term.

### **A. Exemptions process**

Since publication of the RoHS Directive, the Commission has launched several different stakeholder consultations to identify possible exemptions from the scope. So far, decisions have only been taken on the exemption requests covered by the 1st stakeholder consultation (= 1st package of exemptions granted) and a set of 2 additional exemption requests (= 2nd package of exemptions granted). Although a 2nd consultation round containing 22 additional exemptions closed in February 2005, only 6 of these exemptions requests (cases 16-21) shall be up for a vote at the TAC on February 15th (= possible 3rd package of exemptions granted).

EICTA member companies supported 5 other exemptions in the 2nd stakeholder consultation (see Annex). The Commission has yet to confirm if any of these pending exemptions has been successful. Companies find it difficult to operate with so much uncertainty and commercial risk particularly as they need a certain time for preparation to adjust their operations (including stop of manufacturing for some products).

As a matter of urgency, EICTA calls on the TAC and the Commission to communicate the timeline for processing outstanding exemption requests and to ensure that all exemption requests of the 2nd stakeholder consultation (February 2005) are decided well in advance of the July 1st 2006 deadline.

### **B. FAQ**

EICTA welcomes the Commission decision to publish the FAQ document in May 2005, which has been extremely useful in addressing many of the frequently asked questions in relation to the WEEE and RoHS Directives. However, there are still many issues that need to be clarified by the Commission and included in a revised version of the FAQ as soon as possible. For example, one issue of particular concern to EICTA member companies is the need to include an explanation in the FAQ making it clear that the derogation for spare parts in Article 2(3) extends to unit service exchange as part of a producer's warranty and

repair service (see link to separate position paper: <http://www.eicta.org/files/RoHSFAQs-144037A.pdf>; also attached).

EICTA urges the TAC and the Commission to address in an updated and revised FAQ many of the outstanding questions raised by industry, including this issue of spare parts.

### **C. Member State Transposition and Enforcement**

EICTA welcomes the efforts made by the Member States to ensure timely transposition of the RoHS Directive. However, we are concerned that some Member States are deviating from the provisions of the Directive, which is in conflict with the Directive's legal basis. Given the impact of the RoHS Directive on the global electronics industry, it is essential that within Europe internal market rules are observed and enforced. One example where EICTA is concerned over national interpretation is the concept of "put on the market". The Commission guidance in the FAQ is very clear in defining that the market refers to the EU market and not the national one. Incorrect transposition of "put on the market" at the national level will have major implications on when companies need to comply with the Directive and could result in an effective barrier to trade. We urge the TAC members to observe the intent of the Directive and transpose it in line with the directive's legal basis and the Commission's guidance. EICTA supports the Commission plan to take appropriate action where required and ensure that Member States correct any discrepancies before the 1st July deadline.

Regarding enforcement of the RoHS Directive, EICTA supports a harmonised approach based on presumption of conformity as discussed in the May 2005 "Workshop on the implementation of the RoHS Directive" hosted by UK DTI, in order to create a level playing field across the Member States. In this regard, we would welcome the development of a guidance document on enforcement by the TAC in order to clarify how companies can prove compliance. However, in order to be beneficial such a document would need to be published within the next 2 months following formal consultation with industry.

### **D. WEEE Harmonisation of Registers**

As a follow-up to the WEEE and RoHS Roundtable discussion on February 1 2006 about the Harmonization of National Registers under WEEE legislation, we would like to highlight the opportunity to address two key aspects that would both significantly reduce the problems experienced by companies and also improve the overall efficiency of the control and reporting mechanisms associated to the Registers.

National registers are already established or in the process of being established in the 25 Member States in accordance with article 12 of the WEEE directive. Depending on the Member State, the criteria for registration are set by the government or by a non-governmental body. In some cases, the registration requirement can be fulfilled by joining an appropriate WEEE recycling scheme.

First, producers are required to register themselves in order to be allowed to sell EEE. In some Member States, national registers are restricted to companies legally established in these particular Member State only.

Producer registration in some form is clearly required as part of the overall responsibilities a producer has to fulfill under the WEEE directive. However, to limit the possibility to register to producers established in the Member State could effectively create a barrier to

intra-community trade for producers trying to sell from another Member State within the Community market. Fortunately, in many Member States registration has not been limited to national producers. EICTA believes all national registers should be open for registration to any producer legally established within EU, subject of course to the same obligations as any company established in the Member State.

The TAC should adopt measures ensuring Member States allow producers in the EU to register in any national register, irrespective of where the producer has a legal base.

Second, the WEEE directive does not foresee for a harmonization of registration requirements. Consequently, we see that each register creates different requirements in terms of reporting, demonstrating compliance, and marketing new EEE. There is an opportunity to harmonize the requirements imposed on the producers in the following areas:

- Definitions of type of equipment
- Differentiation between household equipment vs. non-household equipment that are critical for the determination of the financial responsibilities for historical waste.
- Content and frequency of reporting obligations. This would not only simplify the compliance by Industry but would also increase the quality of the information and therefore facilitate the reporting of coherent – due to the use of equivalent criteria - and comparable data from Member States to the Commission.
- Information requirements as part of the registration process.

Whilst recognizing that a full harmonization of registers is impossible in the short term, EICTA will help in identifying areas where a certain level of harmonization is desirable. We hope this will reduce the administrative burden of producers and avoid the creation of national requirements which do not contribute to the objectives of the WEEE Directive.

EICTA would call for a commitment from the Commission and Member States to take our findings into consideration and work towards harmonization of Registers; e.g. by issuing a set of guidelines.

EICTA welcomes the chance to raise these issues, which are of high priority to our member companies in the short-term, and we ask the TAC members and the Commission to address these as a matter of urgency at the meeting on February 15th.

Yours sincerely,

Ramon Launa  
Manager Public Affairs

CC:

DG Environment: Mr. Klaus Koegler, Ms. Anna Passera, Mr. Kurt Van den Hertem  
DG Enterprise, Mr. Michel Catinat, Mr. Luis Montoya, Mr. Michail Papadoyannakis, Mr. Dino Pinelli

## **Annex**

### **List of EICTA supported exemptions at the 2<sup>nd</sup> Stakeholder Consultation, Feb 2005, in addition to those already in the Commission proposal.**

- a. Lead in tin whisker resistant coatings for fine pitch applications (Case 1)
- b. Hexavalent chromium (CRVI) passivation coatings (Case 5),
- c. Lead in lead oxide glass plasma display panels (Case 6)
  
- d. Lead in connectors, flexible printed circuits, flexible cables (Case 7).
- e. Lead oxide in lead glass, bonding materials of magnetic heads and magnetic heads (Case 8)

## **About EICTA:**

EICTA, founded in 1999 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 54 major multinational companies and 35 national associations from 26 European countries. In all, EICTA represents more than 10,000 companies all over Europe with more than 2 million employees and over EUR 1,000 billion in revenues.

### The membership of EICTA:

#### Direct Company Members:

Accenture, Adobe, Agilent, Alcatel, Apple, Bang&Olufsen, Blaupunkt, BenQ, Brother, Bull, Canon, Cisco, Corning, Dell, EADS, Epson, Ericsson, Fujitsu, Hitachi, HP, IBM, Infineon, Intel, JVC, Kenwood, Kodak, KonicaMinolta, Lexmark, LG Electronics, Loewe Opta, Lucent, Microsoft, Motorola, NEC, Nokia, Nortel, Océ, Panasonic, Philips, Pioneer, Qualcomm, Samsung, Sanyo, SAP, Sharp, Siemens, Sony, Sun Microsystems, Symantec, Texas Instruments, Thales, Thomson, Toshiba, Xerox.

#### National Trade Associations:

Austria: FEET; Belgium: AGORIA; Bulgaria: BAIT; Czech Republic: SPIS; Denmark: ITEK, ITB; Estonia: ITL; Finland: SET, FFII; France: ALLIANCE TICS, SIMAVELEC; Germany: BITKOM, ZVEI; Greece: SEPE; Hungary: IVSZ; Italy: ANIE, ASSINFORM; Ireland: ICT Ireland; Latvia: LITTA; Lithuania: INFOBALT; Malta: ITTS; Netherlands: ICT-Office; Norway: ABELIA, IKT Norge; Poland: KIGEIT, PIIT; Slovakia: ITAS; Slovenia: GZS; Spain: AETIC; Sweden: IT Företagen; Switzerland: SWICO, SWISSMEM; United Kingdom: INTELLECT; Turkey: ECID, TESID.