

## **EBFRIP initial reaction to the draft report on the RoHS Directive proposal by Rapporteur Jill Evans**

24 November 2009

On 1 December 2009, the Environment Committee will have an opportunity to discuss the proposals in the draft report of Jill Evans on the European Commission's recast proposal for a Directive on the restriction of certain hazardous substances (RoHS)<sup>1</sup>.

EBFRIP is carefully examining the draft report and will share its more detailed views and suggestions with the Members of the Environment Committee before that debate. EBFRIP, the European Brominated Flame Retardant Industry Panel, represents the producers of brominated flame retardants. Brominated flame retardants are used to increase the resistance to fire of electronic equipment. EBFRIP has identified the following key areas of concerns:

### **Should families of chemicals be subject to a ban without looking at the distinctly differing properties of individual substances?**

The rapporteur proposes to ban entire families of substances, including brominated flame retardants, without providing a scientific justification. The EU's Chemical policy reflected in REACH is based on the objective, scientific assessment of substances based on risk. EBFRIP firmly believes that rather than banning entire families of substances, the EU should remain consistent with its established approach of judging each chemical substance on the basis of science and risk assessment.

### **Should the use of less-tested flame retardant chemicals with less known environmental and health impacts be rewarded by the RoHS Directive?**

Several brominated flame retardants have been through the EU's Risk Assessment process without any requirement for restriction being identified. However the Rapporteur does not appear to recognise this and does not require substitutes to undergo the same scientific evaluation as the substances she proposes to restrict. EBFRIP is of the opinion that RoHS should be about ensuring the safety of all products based on scientific risk assessment – safe for the environment, safe for human health and fire safe for the consumer. EBFRIP recommends that the RoHS Directive should not restrict known and tested flame retardants in favour of less known alternative chemicals, with as yet unevaluated consequences for the environment and fire safety.

### **Is it not necessary to have a process of scientific assessment prior to any restriction of a product?**

The Commission proposes to develop a methodology for deciding on the restriction of substances based on the REACH process. The Rapporteur places the cart before the horse by proposing to restrict a number of substances without them having gone through a clear process. EBFRIP calls on the European Parliament and the Council to ensure that decisions on restricting further substances will be taken following a science and risk-based approach. It also calls on legislators to establish a clear process, involving existing expertise in ECHA, to make a scientific judgment - not just on brominated flame retardants but on all flame retardant chemicals.

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<sup>1</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-430.424+02+DOC+PDF+V0//EN&language=EN>

### **On what basis does the Rapporteur propose restrictions?**

The Rapporteur justifies the banning of brominated and chlorinated flame retardants on the basis of a report produced at the request of the European Commission by the Öko-Institut. However, EBFRIIP asks legislators to take account of "two important caveats" in the Öko report:

- "Firstly, the documented environmental, economic and social data are not complete, in particular for substitutes. For this reason there can be no robust recommendation as to the need to restrict the use of the substances according to the present state of knowledge ..." (p.213).
- "Secondly, the recommendations to restrict the five substances under the RoHS Directive are not in all cases supported by the conclusions of the official EU risk assessments." (p.214).

Furthermore, the Öko Report recognises that "comprehensive risk assessments do not yet exist for most substitutes." (p.8). EBFRIIP therefore calls on the European Parliament and Council to take note of the statement that "the recommendations made in this report must only be understood as one input to making policy choices." (p.8)

### **Should EU legislation be based on the commercial strategies of a few multinational electronics companies or should it instead be founded on EU risk assessments?**

Central to the Rapporteur's proposal to ban brominated flame retardants is the practice of some global players in the electronics industry, who have been publicly pressurised by Greenpeace, to move away from brominated and chlorinated flame retardants towards other chemical solutions. Public policy and legislation should not be based on commercial strategies of the few and instead should ensure a high level of environmental and health protection, underpinned by scientific evidence. Multinational electronics companies should not be rewarded for shifting to less tested flame retardant chemicals.

### **Should lack of proper implementation of existing EU legislation (e.g. on waste exports) be a driver for introducing extreme measures in the RoHS Directive?**

Finally, EBFRIIP is under the impression that the rapporteur wishes to correct through RoHS the incorrect or non-implementation of existing EU regulation, such as EU waste export rules and the Waste Incineration Directive. EBFRIIP believes that the correct application and enforcement of the WEEE Directive will ensure that E&E equipment is recycled, recovered, or disposed of in a safe manner in appropriate installations in the EU. Furthermore, the enforcement of applicable waste shipment regulations should avoid the illegal export and dumping of E&E equipment. The RoHS Directive is neither an effective nor a proportionate tool to solve this issue. Resorting to drastic measures such as the banning of entire families of substances should not be used to replace correct implementation of existing legislation.

For further information:

Dr. Phil Hope  
EBFRIIP Sector Group Manager  
[pho@cefic.be](mailto:pho@cefic.be)  
Tel: +32 2 676 7230

### **About EBFRIIP and Brominated Flame Retardants**

*The European Brominated Flame Retardant Industry Panel represents the three main producers of brominated flame retardants, who are also major producers of alternative flame retardants based on phosphorus and mineral chemistry. Flame retardant manufacturing sites of EBFRIIP member companies include those based in 5 EU Member States (France, Germany, Italy, the Netherlands, and the United Kingdom).*

*Brominated flame retardants are chemicals commonly used in the manufacture of many domestic and industrial appliances, for instance in 70% of electrical and electronic appliances for the purpose of fire safety. Flame retardants provide people with up to 15 times more escape time when there is a fire.*