Dear Ms. Anne Turner
Environmental & Technical Regulation Directorate
Department for Business, Enterprise and Regulatory Reform

Brussels, 13th May 2009

JBCE Response to the Government consultation on European Commission proposals to recast the EC Directives on WEEE and ROHS

We JBCE would like to forward our comments only from the perspective of specific industries, namely air-conditioning industry, medical equipment and monitoring instruments industry (Categories 8&9). Our comments in this paper, therefore, focus on specific issues closely related to these industries.

Since the recasts of WEEE and ROHS directives contain a variety of issues which would have a significant impact on wide range of industries, such as conformity assessment issue and the procedure for reviewing exemptions or adding new substances, we will come up with additional comments and positions at the later stage.

Our responses to the consultation at this moment are as follows.

Answer to Q1
(Air-conditioning industry)
ROHS Directive:
The air conditioning industry have implemented the ROHS directive within the original scope of the directive as a Large Household Appliance defined in Annex 1A and as an Air conditioning Appliance as outlined in Annex 1B, fixed installations being out of scope. The proposed recast of the directive is interpreted as "Large Household Air Conditioners Appliances" must still fulfil ROHS Directive, but the "split type" Air Conditioners (or more specifically, the outdoor units and indoor units as the parts that they typically consist in), will be now out of ROHS scope, as far as they:

- are indeed "designed as part of another equipment that does not fall within the scope of this Directive and can fulfil its function only if it is a part of that equipment" (a "split system fixed installation"),

- and also are "equipment which is not intended to be placed on the market as a single functional or commercial unit".

WEEE Directive:

Within the recast the scopes will be equal but it is important to note that

- "split type" Air Conditioners are not "plug and play" equipment which can be installed and desinstalled by the end user at the end of their life. This operation must be done by professional installers.

- since almost all "split type" Air Conditioners use HFC/HCFC refrigerants, all the operations at the time of dismantling the installation have to be done by duly authorized specialised personnel, under the FGAS regulation (842/2006/EC on certain fluorinated greenhouse gases) and the ODS regulation (ozone depleting substances 2037/2000).

and therefore, "split type" Air Conditioners, at the end of their life, cannot be managed through the normal recovery and treatment schemes typical for the household WEEE (plug and play and others household EEE that, at the end of their life, are put to the municipalities collection streams by the end user).

The outcome of this is that WEEE and RoHS scopes must remain separate.

Answer to Q2

(Air-conditioning industry)

When selling product to a European wide market the legal interpretation and lack of common implementation as afforded by an Article 175 Directive places a large burden on each manufacturer to ensure that all the needs of each National Bodies are met for the import of products into each member state.

Within the reacts of the Directive WEEE and ROHS will be Article 95 which is promoted by manufacturers.

Answer to Q3 to Q7

No specific comment

Answer to Q8

(Air-conditioning industry)

There is a concern regarding producers responsibilities related to the collection waste stream that producers cannot control. Producers are not able to ensure that all WEEE are correctly managed through the correct collection way since, Local Authorities and other parts not acting on Producers behalf, are not always setting most valuable WEEE parts to the correct recycling route or at the most reasonable cost. It will be worst since none of them have responsibilities assigned by new WEEE proposal. If the producers will be liable to the collection targets and financial household collection, it will not be a requirement to achieve both targets and it could create an unfair economical damage to the producers.

Answer to Q9

(Air-conditioning industry)

Please see the above comment for Q8.

Answer to Q10

(Air-conditioning industry)

Please see the above comments for Q8.

Ansewrer to Q11

(Air-conditioning industry)

No, at this time there is not enough consumer education/information on the requirement of recycling of WEEE and /or the understanding of information sold with the product. This also applies to the Sales organisation.

Answer to Q12

(Air-conditioning industry)

Please see answer to Q 11.

Answer to Q13

(Air-conditioning industry)

This will contribute to reduce not only administrative burden, it will also improve the correction of all declared and registered data on it.

Answer to Q14

No specific comment

Answer to Q15

(Air-conditioning industry)

Market surveillance of product coming into the Member states remains a highly important issue with the ever increasing directive burdens. As yet there are no reflective resources to facilitate the higher demands so including the requirement although highly desired may not reflect the ability of each member state to achieve practically the monitoring required.

Answer to Q16

(Air-conditioning industry)

There are already significant administrative burden on the importer/manufacturer for information relating to the products. It would be seen onerous to add more.

Answer to Q17

(Air-conditioning industry)

The addition of information will not change the need for resources to track and evaluate the content of the export/import products.

Answer to Q18

No specific comment

Answer to Q19

(Air-conditioning industry)

Clarification of the scope by the European Commission, is essential to the implementation of this directive. A positive list would be the most effective method for clarity. This clarification is also necessary in order to avoid that different Member States keep applying different interpretations about WEEE scope regarding "Split Type" Air Conditioners.

(Medical equipment and monitoring instruments industry (Categories 8&9))

Article 3(p) of the Commission ROHS Recast proposal contains the following definition: “industrial monitoring and control instruments” mean monitoring and control instruments designed for exclusively industrial or professional use. Additionally, Annex II lists “Measuring, weighing or adjusting appliances for household or as laboratory equipment” as covered by category 9. The result of this is a certain overlap, as well as a lack of clarity. Importantly,

1. “monitoring and control” by default includes processes/performance of “measuring, weighing or adjusting”
2. “measuring, weighing or adjusting appliances used as laboratory equipment are by default designed for professional use and therefore used only professionally.

In order to clarify this and avoid confusion we recommend the following text changes:

Article	COM Original Proposal	Recommendation
3 (p)	"industrial monitoring and control instruments" mean monitoring and control instruments designed for exclusively industrial or professional use.	**Amend wording in 3 (p):** "industrial monitoring and control instruments" mean monitoring and control instruments designed for exclusively industrial or professional use ***(e.g. laboratory equipment).***
ANNEX II	9. Monitoring and control instruments, including Smoke detector Heating regulators Thermostats Measuring, weighing or adjusting appliances for household or as laboratory equipment Industrial monitoring and control instruments	**Delete “or as laboratory equipment” in Annex II:** 9. Monitoring and control instruments, including Smoke detector Heating regulators Thermostats Measuring, weighing or adjusting appliances for household ~~***or as laboratory equipment***~~ Industrial monitoring and control instruments

Answer to Q20

(Air-conditioning industry)

The outcome of this is that WEEE and ROHS scopes must remain separate as explained in Q1.

EMC and CE marking generally relate to Safety issues. They cannot be compared directly with the WEEE/RoHS directives. The WEEE directive requires and infrastructure in place to provide effectivement management. This is not the case for all WEEE products.

Answer to Q21 to Q24

No specific comment

Our suggestion for exemptions to additional comments form medical equipment and monitoring instruments industry (Categories 8&9)

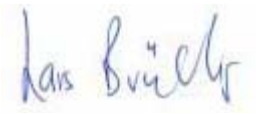
Exemptions are listed in ANNEX V (general) and ANNEX VI (categories 8&9). As the Oeko Institute recommended, existing exemptions (not identical to the list in ANNEX V) should be assessed specifically from the perspective of categories 8&9 equipment when these will be included in the ROHS scope (2014).

In order to avoid confusion, we propose to list all exemptions for categories 8&9 in ANNEX VI (see attached table).

Correspondingly, we also propose to change the text of Article 4.6 from “Paragraph 1 shall not apply to the applications listed in Annexes V and VI.” to “Paragraph 1 shall not apply to the applications listed in ANNEX V for categories 1 – 7 and 10. It shall not apply to the applications listed in ANNEX VI for categories 8 and 9 from 1st January 2014.”

If you have any questions, for further information, please feel free to contact us.

Kind regards,



Lars Brückner

Chairman Environment Committee
Japan Business Council in Europe (JBCE)

Attached table

[NEW ANNEX VI]

COM Original Proposal	Recommendation
ANNEX VI Applications exempted from the ban in Article 4(1) as regards Categories 8 and 9 Equipment utilising or detecting ionising radiation 1 Lead, cadmium and mercury in detectors for ionising radiation 2 Lead bearings in X-ray tubes 3 Lead in electromagnetic radiation amplification devices: micro-channel plate and capillary plate 4 Lead in glass frit of X-ray tubes and image intensifiers and lead in glass frit binder for assembly of gas lasers and for vacuum tubes that convert electromagnetic radiation into electrons 5 Lead in shielding for ionising radiation 6 Lead in X-ray test objects. 7 Lead stearate X-ray diffraction crystals 8 Radioactive cadmium isotope source for portable X-ray fluorescence spectrometers Sensors, detectors and electrodes (plus item 1) 1a Lead and cadmium in ion selective electrodes including glass of pH electrodes	ANNEX VI Applications exempted from the ban in Article 4(1) as regards Categories 8 and 9 ***Exemption List I:*** Equipment utilising or detecting ionising radiation 1 Lead, cadmium and mercury in detectors for ionising radiation 2 Lead bearings in X-ray tubes 3 Lead in electromagnetic radiation amplification devices: micro-channel plate and capillary plate 4 Lead in glass frit of X-ray tubes and image intensifiers and lead in glass frit binder for assembly of gas lasers and for vacuum tubes that convert electromagnetic radiation into electrons 5 Lead in shielding for ionising radiation 6 Lead in X-ray test objects. 7 Lead stearate X-ray diffraction crystals 8 Radioactive cadmium isotope source for portable X-ray fluorescence spectrometers Sensors, detectors and electrodes(plus item 1) 1a Lead and cadmium in ion selective electrodes including glass of pH electrodes 1b Lead anodes in electrochemical oxygen sensors 1c Lead, cadmium and mercury in infra-red light detectors

COM Original Proposal	Recommendation
1b Lead anodes in electrochemical oxygen sensors 1c Lead, cadmium and mercury in infra-red light detectors 1d Mercury in reference electrodes: low chloride mercury chloride, mercury sulphate and mercury oxide Others 9 Cadmium in helium-cadmium lasers 10 Lead and cadmium in atomic adsorption spectroscopy lamps 11 Lead in alloys as a superconductor and thermal conductor in MRI 12 Lead and cadmium in metallic bonds to superconducting materials in MRI and SQUID detectors 13 Lead in counterweights 14 Lead in single crystal piezoelectric materials for ultrasonic transducers 15 Lead in solders for bonding to ultrasonic transducers 16 Mercury in very high accuracy capacitance and loss measurement bridges and in high frequency RF switches and relays in monitoring and control instruments not exceeding 20 mg of mercury per switch or relay 17 Lead in solders in portable emergency defibrillators 18 Lead in solders of high performance infrared imaging modules to detect in the range 8 – 14 μm 19 Lead in Liquid crystal on silicon (LCoS) displays 20 Cadmium in X-ray measurement	1d Mercury in reference electrodes: low chloride mercury chloride, mercury sulphate and mercury oxide Others 9 Cadmium in helium-cadmium lasers 10 Lead and cadmium in atomic adsorption spectroscopy lamps 11 Lead in alloys as a superconductor and thermal conductor in MRI 12 Lead and cadmium in metallic bonds to superconducting materials in MRI and SQUID detectors 13 Lead in counterweights 14 Lead in single crystal piezoelectric materials for ultrasonic transducers 15 Lead in solders for bonding to ultrasonic transducers 16 Mercury in very high accuracy capacitance and loss measurement bridges and in high frequency RF switches and relays in monitoring and control instruments not exceeding 20 mg of mercury per switch or relay 17 Lead in solders in portable emergency defibrillators 18 Lead in solders of high performance infrared imaging modules to detect in the range 8 – 14 μm 19 Lead in Liquid crystal on silicon (LCoS) displays 20 Cadmium in X-ray measurement filters

<table>
<tr><th>COM Original Proposal</th><th>Recommendation</th></tr>
<tr><td>filters</td><td>

Exemption List II:

1. Mercury in compact fluorescent lamps not exceeding 5 mg per lamp.

2. Mercury in straight fluorescent lamps for general purposes not exceeding:

<table>
<tr><td>*— halophosphate*</td><td>*10 mg*</td></tr>
<tr><td>*— triphosphate with normal lifetime*</td><td>*5 mg*</td></tr>
<tr><td>*— triphosphate with long lifetime*</td><td>*8 mg.*</td></tr>
</table>

3. Mercury in straight fluorescent lamps for special purposes.

4. Mercury in other lamps not specifically mentioned in this Annex.

5. Lead in glass of cathode ray tubes, electronic components and fluorescent tubes.

6. Lead as an alloying element in steel containing up to 0,35 % lead by weight, aluminium containing up to 0,4 % lead by weight and as a copper alloy containing up to 4 % lead by weight.

7. -Lead in high melting temperature type solders (i.e. lead-based alloys containing 85 % by weight or more lead),
-lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching,

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COM Original Proposal	Recommendation
	signalling, transmission as well as network management for telecommunications, ***-lead in electronic ceramic parts (e.g. piezoelectronic devices).*** ***8. Cadmium and its compounds in electrical contacts and cadmium plating except for applications banned under Directive 91/338/EEC27 amending Directive 76/769/EEC28 relating to restrictions on the marketing and use of certain dangerous substances preparations.*** ***9. Hexavalent chromium as an anti-corrosion of the carbon steel cooling system in absorption refrigerators.*** ***11. Lead used in compliant pin connector systems.*** ***12. Lead as a coating material for the thermal conduction module c-ring.*** ***13. Lead and cadmium in optical and filter glass.*** ***14. Lead in solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80 % and less than 85 % by weight.*** ***15. Lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit Flip Chip packages.*** ***16. Lead in linear incandescent lamps with silicate coated tubes.***

COM Original Proposal	Recommendation
	17. Lead halide as radiant agent in High Intensity Discharge (HID) lamps used for professional reprography applications. ***18. Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi2O5:Pb) as well as when used as speciality lamps for diazo-printing reprography, lithography, insect traps, photochemical and curing processes containing phosphors such as SMS ((Sr,Ba)2MgSi2O7:Pb).*** ***19. Lead with PbBiSn-Hg and PbInSn-Hg in specific compositions as main amalgam and with PbSn-Hg as auxiliary amalgam in very compact Energy Saving Lamps (ESL).*** ***20. Lead oxide in glass used for bonding front and rear substrates of flat fluorescent lamps used for Liquid Crystal Displays (LCD).*** ***21. Lead and cadmium in printing inks for the application of enamels on borosilicate glass.*** ***22. Lead as impurity in RIG (rare earth iron garnet) Faraday rotators used for fibre optic communications systems.*** ***23. Lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with NiFe lead frames and lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with copper lead***

COM Original Proposal	Recommendation
	frames. ***24. Lead in solders for the soldering to machined through hole discoidal and planar array ceramic multilayer capacitors.*** ***25. Lead oxide in plasma display panels (PDP) and surface conduction electron emitter displays (SED) used in structural elements; notably in the front and rear glass dielectric layer, the bus electrode, the black stripe, the address electrode, the barrier ribs, the seal frit and frit ring as well as in print pastes.*** ***26. Lead oxide in the glass envelope of Black Light Blue (BLB) lamps.*** ***27. Lead alloys as solder for transducers used in high-powered (designated to operate for several hours at acoustic power levels of 125 dB SPL and above) loudspeakers*** ***30. Cadmium alloys as electrical/mechanical solder joints to electrical conductors located directly on the voice coil in transducers used in high-powered loudspeakers with sound pressure levels of 100 dB (A) and more.*** ***31. Lead in soldering materials in mercury free flat fluorescent lamps (which e.g. are used for liquid crystal displays, design or industrial lighting).*** ***32. Lead oxide in seal frit used for making window assemblies for Argon and Krypton laser tubes.***

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