Commission Delegated Directive (EU) 2019/173 of 16 November 2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead and cadmium in printing inks for the application of enamels on glasses (Text with EEA relevance)

COMMISSION DELEGATED DIRECTIVE (EU) 2019/173

of 16 November 2018

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment[(1)] and in particular Article 5(1)(a) thereof,

Whereas:

(1) Directive 2011/65/EU requires Member States to ensure that electrical and electronic equipment placed on the market does not contain certain hazardous substances listed in Annex II to that Directive. That requirement does not apply to the applications listed in Annex III to Directive 2011/65/EU.

(2) The different categories of electrical and electronic equipment for which Directive 2011/65/EU applies (categories 1 to 11) are listed in Annex I to that Directive.

(3) Lead and cadmium are restricted substances listed in Annex II to Directive 2011/65/EU. The use of lead and cadmium in certain printing applications for glasses was, however, exempted from the restriction and is currently listed in entry 21 of Annex III to that Directive. The expiry date of that exemption was, for categories 1 to 7 and 10, 21 July 2016.

(4) The Commission received an application for renewal of that exemption before 21 January 2015, in accordance with Article 5(5) of Directive 2011/65/EU. The exemption remains valid until a decision on that application has been adopted.

(5) Lead and cadmium in printing inks applied to glass provide a durable product marking, especially on the glass bulb of lamps. The marking serves several purposes such as European conformity (CE) and Waste Electrical and Electronic Equipment (WEEE) marking, identifying the producer and the lamp type and wattage, which is relevant for safety, correct lamp replacement and recycling. The durability of the marking is

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important to maintain the legibility of product markings throughout product-lifetime, as required by legislations and product safety standards.

(6) Lead provides essential properties such as good adhesion, lower enamelling temperatures, higher durability and opacity.

(7) Cadmium is used to achieve certain hues of the enamel in various application areas, including applications for safety and warning purposes where certain hues are considered to increase visibility. It also provides important filtering functions.

(8) A substitution or elimination of lead is still scientifically and technically impracticable for certain applications covered by the current exemption with regard to categories 1 to 7 and 10 due to the lack of reliable substitutes. The exemption does not weaken the environmental and health protection afforded by Regulation (EC) No 1907/2006 of the European Parliament and of the Council[(2)]. The exemption should therefore be renewed for those particular applications and categories.

(9) A substitution or elimination of cadmium is still scientifically and technically impracticable for certain applications covered by the current exemption with regard to categories 1 to 7 and 10 due to the lack of reliable substitutes. The exemption does not weaken the environmental and health protection afforded by Regulation (EC) No 1907/2006. The exemption should therefore be renewed for those particular applications and categories.

(10) For all other applications currently covered by the exemption, the conditions for renewal are not fulfilled. The exemption for those applications should continue to apply for 12 months after the date of entry into force of this Delegated Directive in accordance with Article 5(6) of Directive 2011/65/EU.

(11) Since for the lead containing applications concerned by the renewal, no reliable alternatives are available on the market, the exemption for those applications should be renewed for categories 1 to 7 and 10 for the maximum duration of five years until 21 July 2021. In view of the results of the ongoing efforts to find a reliable substitution, the duration of the exemption is unlikely to have adverse impacts on innovation.

(12) Since for the cadmium containing applications concerned by the renewal, no reliable alternatives are available on the market, the exemption for those applications should be renewed for categories 1 to 7 and 10 for the maximum duration of five years until 21 July 2021. In view of the results of the ongoing efforts to find a reliable substitution, the duration of the exemption is unlikely to have adverse impacts on innovation.

(13) For categories other than 1 to 7 and 10, the existing exemption remains valid as per the validity periods set out in the second subparagraph of Article 5(2) of Directive 2011/65/EU. For reasons of clarity, the dates of expiry should be added in Annex III to that Directive.

(14) Directive 2011/65/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE: