Raising standards for consumers

The Consumer Voice in Europe

Protecting consumers from hazardous chemicals in textiles

ANEC / BEUC contribution to the European Commission public consultation on possible restriction of hazardous substances (CMR 1A and 1B) in textile articles for consumer use

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Summary

The European Commission is consulting the public on option how to better protect consumers from chemicals in textiles which are known to cause cancer, are mutagenic or toxic to reproduction. This paper provides additional information to the online questionnaire which is open until 22 March 2016.

ANEC and BEUC insist in particular that focusing on CMR substances of category 1A and 1B is insufficient to ensure consumers' health and safety as results from consumer testing demonstrate that there is a wide range of chemicals of concern present in clothing, toys and child care articles. We insist that the product group of textiles should be tackled through a product specific legislation which needs to address all substances of very high concern, i.e. substances which are persistent, bioaccumulative, toxic, very persistent, very bioaccumulative, endocrine disrupters and substances with probable serious effects to human health such as sensitisers.

General remarks

The 7th Environment Action Programme seeks to ensure that consumers can live in a toxic-free environment. To realize this goal, chemicals in textiles require a strict regulatory approach. Consumer organisations unveiled through comparative product testing that a wide range of worrying chemicals are present in textiles. As not all of these harmful chemicals were present in all tested products, we are confident that these harmful chemicals are in many cases not needed for the production process and that it is possible to produce safer textiles. Consumer research also showed that price seemed not to be a decisive factor of whether or not certain textiles contained harmful chemicals.

ANEC and BEUC support the intention of the European Commission to better regulate a group of harmful substances simultaneously in a group of consumer products (textiles). Grouping harmful substances which may be present in consumer products and to regulate them at once should become the general approach in the future and be replicated for other consumer product groups to effectively protect consumers from exposure to harmful chemicals. However, it is a fundamental weakness of REACH that a generic exclusion of substances falling in hazard classes such as CMR is impossible. By contrast, such generic bans have been already successfully included in sectoral legislation (e.g. Cosmetics Regulation). This is a much simpler way of eliminating substances of high concern. Even though Article 68(2) allows a simplified procedure it is still based on a substance-by-substance consideration.

In addition, the consultation document states that an inclusion in the possible restriction will depend on whether evidence of their presence is received in the public consultation such as stemming from results of testing. This approach has to be fundamentally criticized as consumer organisations – even though testing a lot of products in laboratories with regard to their chemicals content - have limited resources and cannot be expected to provide evidence for each of the almost 300 substances listed in the consultation document. This approach is not in line with the precautionary approach and the philosophy of REACH which requires manufacturers to bring evidence for safe use rather than the regulator or civil society. Moreover, not banning the highest possible number of harmful chemicals by law would allow certain manufacturers who are not responsible to use such substances in the future and finally textiles intended for consumers could still contain harmful chemicals. Thus, we call on the Commission to fundamentally reverse their approach and to only exclude certain chemicals from the list in case they are proven to be of no concern.

1. Scope

1.1 Addressing all substances of (high) concern

Just addressing CMRs Cat. 1A and as suggested in the consultation is insufficient to better protect consumers. The regulatory approach should cover also CMRs of category 2 as well as all other substances which are e.g. persistent, bioaccumulative, toxic, very persistent, very bioaccumulative, (neuro)toxic, endocrine disrupters and substances with probable serious effects to human health such as sensitisers or irritants. In addition, it is important to address unintentionally added substances (such as impurities and pesticide residues) and volatile organic substances emitted to the indoor air. There are aspects that are not directly related to toxicity (odour, saliva resistance) which should be addressed. For some categories of substances even a positive list approach may be warranted.

We suggest that textiles should not be addressed through REACH but be regulated rather through a separate, product specific regulation on textiles, allowing addressing all substances of concern in an appropriate way taking into account already existing voluntary specifications such as the Oekotex standards (see also 3.1 below).

1.2 Requirements must apply to individual parts, not the overall product

We insist that the regulatory measure must apply to textile parts in a product and not only the overall product. This would be in line with a recent landmark ruling from the European Court of Justice who had clarified in relation to the notification requirement of SVHCs that this requirement applies to the individual part in terms of weight, not the overall article. The consultation document is currently somewhat ambiguous as it states in point 2:

"Articles that consist of at least 80% of textile fibres by weight, **or** Articles that contain a part that consists of at least 80% of textile fibres by weight."

We suggest to replace the word "or" with "and" to provide for sufficient legal certainty.

1.3 Relation to Toy Safety Directive to be clarified

We recommend that the Commission explains more clearly how future provisions on textiles would relate to toys which contain textile parts. The Toy Safety Directive (TSD) 2009/48/EC bans CMRs of category 1 and 2. The rules apply to all materials being used in toys, including textiles. However, the toys legislation allows by way of derogation that CMRs are present up to concentrations mentioned in the Classification, Packaging and Labelling Regulation which are rather high (1000-3000ppm). If the approach to ban CMRs in textiles at levels of 30 and 50 ppm would be realized through future rules on textiles, it could be an interesting option to strengthen the TSD and to considerably lower current thresholds. We insist that the more stringent rule must have precedence.

2. Comments on specific substances based on product testing

2.1 PAHs are present in textiles

Regulation No. 1272/2013 limits polycyclic aromatic hydrocarbons (PAHs) in toys to 0.5 mg/kg and in other products for which prolonged or brief and repeated contacts with the human skin exists to 1 mg/ kg. The scope covers however only plastic parts and rubber, not textiles. BEUC's French member UFC – Que Choisir understood from discussions with the French consumer protection authority DGCCRF that this limitation has been made because the contamination of textile fibres with PAHs has been considered to be unlikely or hypothetical. Nonetheless, the testing of UFC Que Choisir and of our Danish member Taenk showed the opposite: PAHs are present in textile parts of toys, children's cloth (e.g. snow suits) and child care articles (e.g. push chair and child restraints), thereby being an important source of exposure of children to a group of chemicals which are classified as 1B carcinogens. As toys have been incorporated belatedly into the scope of the consultation, we underline the importance to rectify a loophole in Regulation No. 1272/2013 and to better protect consumers from exposure to PAHs in textiles.

2.2 Bisphenol A

Bisphenol A (BPA) has been classified in February 2016 as a category 1B substance, toxic for reproduction. It may be used as an antioxidant additive in the production of synthetic fibres and in case it is relevant for the textiles production, we suggest including it.

2.3 Other substances in textiles deteced through consumer testing

Consumer organisations detect also a wide range of chemicals of concern in clothing as well as toys and child care articles which have textile parts. The following overviews have been provided to BEUC by Taenk, the Danish Consumer Organisation, UFC Que Choisir, the French Consumer Organisation, and by DECO (The Portuguese Consumer Organisation), OCU (The Spanish Consumer Organisation), Altroconsumo (The Italian Consumer Organisation), and Test-Achats (The Belgian Consumer Organisation).

	Danish Consumer Council previous tests										
Chemicals	**UV-clothes**	**Babycarriers - textile and foam**	**Prams - textile and foam**	**Teddy bears**	**Running bikes (Toy) - textile and foam from saddel**	**Toys - textiles and velcro**	**Snow suits children**	**Rain suits Children**	**Child restrains - textile and foam**	**Pushchairs - textile and foam**	**Toys (coming with children magazines - textile)**
Phthalates	●	○	●	○	●	○	○	●	○	○	●
Nonylphenol, NPEO, OP, OPEO	●	●	○	●	○	●	not tested	not tested	○	not tested	○
PAHs	○	○	○	not tested	○	●	●	not tested	●	●	not tested
Chlorinated flame-retardants	○	●	●	○	●	●	○	○	●	●	○
Allergenic and carcinogenic dyes	○	not tested	not tested	not tested	not tested	●	not tested	not tested	not tested	not tested	○
Heavy metals	○	not tested	not tested	○	not tested	●	not tested	not tested	not tested	not tested	not tested
Organic tin compounds	○	not tested	not tested	not tested	not tested	●	not tested	not tested	●	○	not tested
Formaldehyd	not tested	not tested	not tested	not tested	not tested	●	not tested	not tested	●	○	not tested
Fluorinated substances	not tested	not tested	●	not tested	not tested	not tested	●	○	not tested	not tested	not tested
Antimicrobial/insecticides	not tested	not tested	not tested	not tested	not tested	not tested	not tested	not tested	○	not tested	not tested

●	Tested and found
○	Tested and not found

	UFC Que Choisir previous tests			
Chemicals	**Stuffed Animals**	**Pyjamas**	**Bodysuits for toddlers**	**Textile matts**
Benz[a]anthracene	●	not tested	not tested	not tested
Chrysene	●	not tested	not tested	not tested
Benzo[j]fluoranthène	●	not tested	not tested	not tested
Benzo[b]fluoranthene	○	not tested	not tested	not tested
Benzo[e]pyrène	●	not tested	not tested	not tested
Dibenz[a,h]anthracene	○	not tested	not tested	not tested
Formaldéhyde	○	●	●	●
Nickel (Ni)	not tested	●	not tested	not tested
Plomb (Pb)	not tested	●	not tested	not tested
Antimoine (Sb)	not tested	●	not tested	not tested
Phtalates	not tested	●	●	○

●	Tested and found
○	Tested and not found

	DECO, OCU, Altroconsumo and Test-Test-Achats previous tests				
Chemicals	**Pyjamas for children**	**Underwear**	**Suits for babies (bodies)**	**Puzzles and textiles mats**	**Changing pads**
Phthalates	●	●	●	●	○
Nonylphenol, NPEO, OP, OPEO	not tested	●	○	○	○
PAHs	○	●	○	○	○
Chlorinated flame-retardants	not tested	not tested	○	○	●
Allergenic and carcinogenic dyes	Allergenic dyes present	Dispense dyes present	○	○	○
Heavy metals	●	●	○	○	○
Organo-tin compounds	not tested	not tested	○	○	○
Formaldehyde	●	○	●	●	○
Fluorinated substances	not tested	not tested	not tested	not tested	not tested
Antimicrobial / insecticides	not tested	not tested	not tested	not tested	not tested
Metals (EN 71-3 cat III)	not tested	not tested	○	●	●

●	Tested and found
○	Tested and not found

3. Additional evidence to be taken into account

We remarked that the list of references of the consultation document does not include some important and recent evidence. We suggest that this will be taken into account:

3.1 KEMI (2015): Farliga kemiska ämnen i textile – förslag till riskhanterande åtgärder. Rapport från ett regeringsuppdrag. Rapport 9/2015.

The English summary of the report states:

"This report of the Swedish Chemicals Agency recommends that the Swedish Government initiates the development of specific product legislation concerning textiles within the EU. The regulation of dangerous substances in textiles is fragmented. The voluntary initiatives that are in place vary as regards substances that are covered and threshold values. A specific Product Act within the EU covering textiles could impose uniform requirements on the dangerous chemicals which need to be regulated and on the development and dissemination of relevant information in the supplier chain, including consumers and waste management operators. The Act should cover identified textile-relevant substances with hazardous properties such as CMR, endocrine-disrupting, allergenic and environmentally harmful substances. We describe at a general level the components which a specific Product Act covering textiles should contain."

ANEC and BEUC fully agree with this recommendation of the Swedish Chemicals Agency and encourage the Commission to initiate a broad discussion on the proposal involving all stakeholders.

Moreover, the Swedish study lists additional chemicals in CMR categories 1A and/or 1B which are not included in the Commission's consultation and we ask for further explanation why the Commission has not taken these into consideration.

3.2 PROSAFE – Joint Market Surveillance Activity on chemicals in textiles

Through the Product Safety Forum of Europe (PROSAFE) market surveillance authorities across different EU countries investigate the safety of different consumer products. A joint activity launched in 2013 on chemicals in textiles will come to an end in February 2016 (see: http://www.prosafe.org/index.php?option=com_content&view=article&id=129&Itemid=607). Within the project about 300 samples have been taken among which a number of non-compliant products have been identified.

We suggest that the expertise and findings of the project will be taken into account.

3.3 Ökotex-Standard

As mentioned above, the Öko-Tex standard should be a model when regulating chemicals in textiles and the background document which contains the limit values should be listed in the references:
https://www.oeko-x.com/en/manufacturers/test_criteria/limit_values/limit_values.html