

The Consumer Voice in Europe

EVALUATION OF THE TOY SAFETY DIRECTIVE, CHEMICALS STRATEGY FOR SUSTAINABILITY: WHICH WAY FORWARD? (Doc. EXP/2021/002)

BEUC comments



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The Chemicals Strategy for Sustainability commits the Commission to reduce children's exposure to harmful chemicals in toys by reinforcing the legislative framework. BEUC, The European Consumer Organisation welcomes this commitment as an overdue opportunity to better safeguard children's health. EU toy safety rules are deficient, as correctly acknowledged in the Strategy and as demonstrated in the REFIT evaluation. Consequently, the Toy Safety Directive (TSD) must be revised without delay.

While we appreciate that the Commission seeks feedback on how to strengthen the TSD's chemicals provisions, toys can however also present dangers to children's health and wellbeing beyond chemical risks. Therefore, a revision EU toy safety rules should also improve children's protection against both 'traditional' hazards (e.g. choking and electrical hazards) as well as new and emerging risks, such as connected toys. A revised TSD must address these concerns, including by allowing the introduction of mandatory requirements for essential safety aspects other than chemicals.

Unsafe toys remain moreover consistently among the highest risks notified through the Safety Gate alert system. In 2019, toys were thus the most notified product category,¹ accounting for 29% of all notifications. 53% of alerts about toys signalled a hazard other than chemical risks. In 2020, toys presenting choking, injury or chemical risks to children were with 27% again the most notified product group.² Above all, a revised TSD must therefore urgently contribute to reduce the unacceptably high number of unsafe toys circulating on the EU market.

An ambitious TSD reform is urgent to protect children against harmful chemicals

In line with the Chemicals Strategy and the findings of the REFIT evaluation, BEUC recommends that a revised TSD:

- **Enables protective limits to be set for all toys and for chemical groups.** The current empowerment to set limit values only for chemicals in toys for children under the age of 36 months, and for toys intended to be put in the mouth is insufficient to keep children safe. Article 46 should thus urgently be reformed. In line with the Chemicals Strategy, a revised TSD should further facilitate regulation of groups of chemicals rather than the adoption of specific limit values for *individual* substances as implied by Article 46.2. Greater reliance on grouping approaches will significantly speed up the adoption or modification of protective limits for more chemicals and will also help avoid situations where a restricted chemical is substituted with chemically related substances with similar hazardous properties ('regrettable substitution').
- **Modernises the approach to assessing and managing chemical risks.** A revised TSD should in particular include an explicit obligation to consider low-dose effects and children's combined exposure to chemicals in toys, childcare articles, and other consumer products as well as from environmental sources. A future 'One Substance, One Assessment' process should support this objective. Adequate resources must in parallel be made available by the Commission and the Member States to systematically identify, assess, and regulate chemicals in toys.

¹ European Commission. [Saving lives every day. 2019 results of the Rapid Alert System for dangerous non-food products](#). March 2020.

² European Commission. [EU Rapid Alert System factsheets 2020](#). March 2021.

- **Extends and adapts the preventive approach for CMRs to the most harmful chemicals** such as endocrine disruptors or substances that are persistent, bioaccumulative (PBT, vPvBs). Consistent with the existing approach to CMR substances, a revised TSD must in particular tackle both known and suspected endocrine disruptors. The Chemicals Strategy notably commits the Commission to ensure that consumer products do not contain the most harmful chemicals. Accordingly, the derogation set out in Annex II, part III, points 4.b and 5.b for CMR substances and mixtures should be deleted. Doing so would indeed align with the objective of achieving non-toxic material cycles outlined in the Chemicals Strategy, thus supporting the transition to a clean circular EU economy. A revised TSD should also extend the preventive approach to chemicals affecting the immune, neurological, or respiratory systems and chemicals toxic to a specific organ. This would both serve to protect children against these chemicals and ensure a future-proof regulatory response to their use in toys, consistent with the Commission's intention to prioritize all uses of these chemicals for REACH restrictions, cf. the announced REACH restriction roadmap.
- **Reduces substantially the generic limits for derogated CMR substances.** As correctly observed by the Commission, the generic concentration limits are thus too high to ensure effective protection according to current scientific knowledge.³ This situation is unacceptable, and we expect the Commission to present without delay a solution. Obviously, a new reduced limit must be mirrored in the announced new safeguards for childcare articles and other children's products. In parallel, Annex II, part III should be revised such that future derogations for CMR substances – and the other harmful chemicals identified in the Chemicals Strategy – can only be considered where all the listed conditions are met.
- **Lowers the limit values for nitrosamines and for nitrosatable substances.** The current values for nitrosamines and nitrosatable substances are inadequate, as previously acknowledged⁴ by the Commission in response to the German request to maintain more stringent national limit values. To protect children's health, new limits for nitrosamines and for nitrosatable substances must at a minimum reflect the lower limits set in standard EN71-12:2017.
- **Reduces children's exposure to skin sensitizers**, including fragrance allergens. Skin sensitisation is a severe and growing concern for consumer health, with an estimated 27% of the EU population sensitised to one or more allergens. An allergy developed in childhood is irreversible, and the EU must ensure that children's exposure to these harmful chemicals is effectively reduced. This should as a priority include a ban on the allergenic fragrances listed in the TSD which currently only needs to be declared on the toy or on an affixed label or on the packaging. In parallel, new strict limits on sensitizers other than fragrance allergens are needed to reduce their use in toys and other children's products.
- **Closes the loophole for biocides used in toys.** The Biocidal Product Regulation (BPR) exempts these uses from the authorization requirement for biocides. This means that biocides used in toys do not need to be authorized. This is a serious omission, and we therefore reiterate⁵ that either an approval system for biocides must be introduced in a revised TSD – or the BPR exemption for toys must be deleted.

³ See e.g. A. Lenzner et al. (2018) CMR substances in consumer products: from food contact materials to toys. *Archives of Toxicology* 92.

⁴ Commission Decision of 1 March 2012 (2012/160/EU).

⁵ ANEC and BEUC. [The EU Subgroup on chemicals in toys fails its mission – Critical review](#). November 2012.

- **Improves transparency about chemicals in toys.** A revised TSD should introduce an obligation to declare the chemical content of toys. This will afford consumers an informed choice as well as facilitate identification and handling of exposure sources. Consumer groups and other NGOs could further contribute to disseminating information about chemicals in toys in a way that is understandable to consumers. Better information – and consumer demands – will in turn reinforce incentives for industry to replace harmful chemicals with safer alternatives.
- **Delivers on the ground by enabling effective enforcement.** Above all, Member States must significantly increase available resources for market surveillance, including of imports and online. In parallel, the new Market Surveillance Regulation includes loopholes concerning online sales of toys: it is imperative that the Commission urgently addresses these shortcomings, in particular by clarifying the roles, obligations and liability of all actors in the supply chain – including online platforms – in other upcoming initiatives such as through proposed Digital Services Act and the reform of the General Product Safety Directive.

ENDS



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