EURATEX contribution to the EC Public Consultation on the CMR restriction*in textile articles and clothing

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*European Commission possible restriction of hazardous substances (CMR 1A and 1B) in textile articles and clothing for consumer use under Article 68(2) of Regulation EC No 1907/2006 (REACH)

Collaboration results

EURATEX, the European Apparel and Textile Industry Confederation, welcomes the European Commission efforts to protect the health of the consumers from harmful substances in clothing and textiles.

EURATEX with its members has since the beginning of this restriction worked closely with the European Commission and other business associations to make sure that such an important and complex restriction can effectively protect the European consumers, be actually enforced by Member States and be feasible for the industry.

We are particularly pleased that the European Commission services have taken into accounts most of the inputs provided by EURATEX as well as by other business associations. These technical inputs have provided an opportunity for the restriction process to build upon the European experts' knowledge of actual industrial manufacturing process as well as to transparently discuss different perspectives.

Bringing such a fruitful collaboration forward, EURATEX wishes to highlight the following points which we believe shall be addressed in the next steps.

Clarity of the scope

We acknowledge that the current draft restriction has an improved clarity of the scope mainly excluding textile products covered by the Regulation (EU) 2016/425[1] and Regulation (EU) 2017/745[2] as well as excluding disposable textiles and second-hand articles. However, we wish to point out the following:

- The wording "related accessories" and "homogenous material" as it is now in the draft allow for a broad interpretation that may lead to uncertainty for economic operators. To provide businesses with full clarity, we propose to strictly adhere to the definition of a textile article as it is under the Textile Regulation (EU) No 1007/2011[3].
- The restriction should clarify that second-hand footwear is also excluded from the scope of the restriction

[1] Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment
[2] Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC
[3] Regulation 1007/2011 on fibre names and related marking of the fibre composition of textile products

EURATEX understands that the European Commission will draw a list of articles to be covered by the restriction in a dedicated guideline/Q&A document. We would like to stress that only an exhaustive list of articles covered, by this restriction would provide businesses with needed clarity, hence enable compliance. In case of updates to the guideline/Q&A document, the European Commission should clearly communicate on the updating process and involve stakeholders for any future revisions.

Test methods for enforcement and compliance

We acknowledge that the draft restriction specifies the importance of technical feasibility to comply with proposed substance limits and of the availability of appropriate testing method. The European Commission had mention to list the analytical methods in a guidance document and later collected input from stakeholders on the recommended methods. EURATEX provided extensive input on the suggested testing methods, However, the current draft does not specify where will these test methods be mentioned nor how will they be updated. It is important that validated and harmonized testing methods are referenced for any restriction in place to provide legal certainty to companies and enforceability for authorities.

Due to the lack of validated and harmonized test methods for all the substance listed and/or need to update certain test methods over time, we deem that the current proposed period of 24 months for enforcement is challenging, therefore, the industry might not be able to prove compliance.

The example of restriction in lead and experiences with NMP and DMAc have widely exposed the issue of test methods which only became available after regulatory action or need time to be developed. A period of 36 months should provide enough time to secure reliable and harmonized test methods, hence to enable enforcement and compliance.

Substances and their limits

We are pleased to see that close collaboration between the European Commission and industry yielded a more realistic and enforceable list of substances with their respective limits. However, we would like to mention that it took time and resources to provide technical input on the initial list of substances that included some not even used in the sector. We applaud the given time limited derogation for formaldehyde in coats, jackets and upholstery for their needed performance. The case of formaldehyde proves that restrictions need to be assessed on a case by case basis taking into account consumer safety, technical feasibility and required performance.

For certain substances, EURATEX wishes to highlight the following comments:

- Quinoline

Quinoline occurs as an impurity from the manufacturing process of dyes and more importantly, there is currently no testing method available to determine the presence of the substance. Therefore, it is challenging to quantify the residual amount of the substance on the finished product which would create a degree of legal uncertainty concerning product compliance and might lead to uneven level playing field between businesses. A level of 100 ppm could allow laboratories to refine existing testing methods or develop new ones as well as provide legal certainty in product compliance.

- Benzene

Currently, there is no suitable testing method to detect the presence of free benzene. Benzene can be formed from other aromatics during the analysis, e.g. it can split off from dyes based on polynuclear aromatics, especially in the case of hot GC-MS analysis leading to false positive results. A higher limit of 20 ppm would be more feasible. Once again, we wish to stress that restrictions should be accompanied with appropriate validates and harmonized testing method.