

CLIENT ALERT

EU Proposing REACH Restrictions on Certain Substances In Textiles and Apparel

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The European Commission is proposing to invoke Article 68(2) of REACH to restrict the use of certain chemicals in clothing and other textiles. This will be the first time since REACH was enacted that this provision will be used for such a broad category of articles.

Article 68(2) of REACH provides a simplified procedure, which the European Commission may use to restrict substances classified as carcinogenic, mutagenic or reproductive toxins (CMR), in mixtures or in articles that could be used by consumers. The procedure is more streamlined than the standard restriction procedure under REACH as it does not include the following:

- The preparation of an Annex XV Dossier to initiate the restriction process.
- Public consultation on this Dossier.
- Opinions by the Committee for Risk Assessment (RAC) and the Committee for Socio-Economic Analysis (SEAC).
- The consultation of the Forum for Exchange of Information on Enforcement.

In October 2015, the European Commission confirmed its intention to use the streamlined procedures of Article 68(2) to target textile articles (such as clothing, curtains, carpets and towels) as a test-case because of the high likelihood of prolonged – or multiple short-term – consumer exposures to CMR substances that may be present in those articles.

In a first phase, the European Commission published a preliminary list of 286 chemicals it proposed to restrict for use in textile consumer articles. In order to target relevant chemicals and articles and to consider the proportionality and enforceability of a possible restriction in this area, the European Commission launched a public consultation which closed this past March, with two main objectives:

- To collect information on the presence of the identified CMR substances (including phthalates, flame retardants and pigments) in relevant consumer articles and on the availability of alternatives.
- To identify the potential socioeconomic impacts and ascertain the enforceability of the possible restriction.

During the 21st meeting of the Competent Authorities for REACH and CLP (CARACAL) held in Brussels on 29 June – 1 July 2016, the European Commission presented feedback on the public consultation and next steps (see the document “Summary of the contributions and next steps” available here).

Considering the many comments received in the public consultation and the difficulty in defining the wide and heterogeneous range of articles to be covered as well as the many CMRs that could potentially be present in textile consumer articles, the European Commission concluded that a stepwise approach is needed.

As a first step, the European Commission would limit the scope of the restriction to articles that may come into direct and prolonged contact with the skin, such as clothing, footwear, and interior textile articles (for example, bed linens). In addition, the

list of CMR substances (individual substances or groups) to be covered by this restriction would only include the substances from the list of the CMRs subject to the public consultation that are most relevant for such articles.

The Commission has not yet indicated when it plans to issue the proposed restriction; however, it is anticipated that the text of the proposed restriction will include:

- The identification of the substances being restricted.
- The specific limit values based on the content.
- The specification of the kind of articles that are covered.
- The specific derogations (*i.e.*, exceptions).
- The transitional period for the application of the restriction.

Before finalizing the restriction, the European Commission will launch a second, shorter public consultation on the draft amendment.

A wider scope and inclusion of additional CMRs in articles such as floor coverings, carpets, upholstery, clothing accessories, and leather articles will be considered in a second step.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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