

REACH and OSH Legislation: Considerations regarding Risk Management Options and Synergies

**Expert Group meeting as part of the
Sectoral Social Dialogue of the European Chemical Industry**



Outline of the presentation

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WHO WE ARE

Cii REACH OSH

Cross-Industry Initiative
for better regulation in chemicals management

Who we are
(>60 organisations)



A wide and dynamic membership

OUR ORIGINS AND POSITION

Introducing the topic

REACH

- Rightly established as the regulatory pillar of EU chemicals management
- Has contributed to unrivalled data collection about substances

Our concerns

- The (non-)targeted use of one element: REACH Authorisation
 - REACH practice disregards and discredits OSH to some extent
 - REACH Authorisation is not a panacea for workers' safety, but may put at risk the recognition and effective functioning of OSH
- The lack of consistent consideration of:
 - RMOs outside of REACH
 - Socio-economic aspects when selecting the most appropriate Risk Management Option (RMO)
 - Whether there is indeed a suitable alternative for the specific use of a substance

Aim of the Cross Industry Initiative (CII)

Have REACH authorities recognise OSH (incl. OELs) as Risk Management Option

- Avoid Candidate Listing and Authorisation when risk is limited to the workplace, i.e. when OSH legislation can more efficiently and properly control it

When is OSH (including OELs) sufficient?

- When RMO Analysis (RMOA) finds that the need for further risk management regarding SVHC-properties is limited to the workplace, i.e. when no further risk management is needed for
 - Consumers
 - Man via the Environment
 - Environment
- Need for the swift setting of appropriate OELs, where RMOAs identify risks limited to the workplace
 - Possibility to explore further synergies between REACH and OSH

industriAll/ECEG declaration (Dec 2015) & CII position paper (Mar 2015)

industriAll / ECEG

“... welcome the ongoing discussions between the European regulatory bodies on improving the synergies between REACH and OSH legislation”

“compliance with existing worker protection legislation can be and is in many cases sufficient to address concerns related to the hazards and the risks of the chemicals. This is especially the case where substances are only used in the workplace and do not pose a risk towards the environment and are not deemed to be present in consumer articles.”

“Substitution is a core element of the principle EU-OSH Directives (...) for preventing exposures to chemicals”

“(We) support the Risk Management Option Analysis approach built into the 2020 Substances of Very High Concern (SVHC) Roadmap for identifying the best regulatory route to address chemicals of concern (...), including EU OSH legislation.”

CII

“The alignment between REACH and EU Occupational Safety and Health (OSH) legislation that we call for is also in line with the objective of REACH to be aligned with workplace legislation (see e.g. Recitals 5, 12 and 111 of the REACH Regulation).”

“When authorities identify a risk, but find that it is limited to the workplace, then workplace-specific legislation offers the most targeted, effective and proportionate regulatory risk management approach.”

“The objective of substitution has been embedded in OSH for several decades. Council Directive 89/391/EEC (...) and its daughter directives (...) all incorporate substitution as a specific protection and prevention measure.”

“Referring to the Commission’s Roadmap on Substances of Very High Concern (SVHC Roadmap), we would like to stress that Risk Management Option Analyses (RMOAs) are rightly aimed at identifying the best regulatory option to manage the risk “either in REACH [...] or outside of REACH”.”

Combination of RMOs

What if the criteria for using OSH OELs as exclusive RMO are not fulfilled for one or a few uses of a substance, but for are fulfilled for others?

CII Position:

- Regulator should combine RMOs:
 - Prioritised setting of OELs for managing the uses, where the risk is limited to the workplace
 - RMO to be chosen for other uses (e.g. a consumer use, posing risks):
 - E.g.: targeted REACH restriction
 - If necessary: Authorisation (with REACH Art. 58(2) exemptions for the other uses)

ADVANTAGES OF OSH LEGISLATION

Benefits of Safety & Health (OSH) Legislation when the concern is limited to the workplace?

OSH

- **Comprehensively covers:**
 - all substance uses including intermediate uses
 - substances contained in and released from articles during the manufacturing process
- **The legislation is well-known and specific**



- **No comprehensive coverage of all uses**
- **Not more effective than OSH**
- **Very high administrative costs**

REACH Authorisation

- Value chain not always entirely aware of obligations to the last level
- Administrative costs (REACH Authorisation applications) are so high that they:
 - reduce EU manufacturers' competitiveness (*imported articles not covered*)
 - encourage relocation of businesses outside the EU (especially in the absence of alternatives)

**COMMON OBJECTIVE:
WORKER PROTECTION**

Need for strengthening OSH

ECEG/industriAll:

Whilst we believe existing OSH EU-Directives and their development in a balanced way can protect workers, there is however room for improvement in terms of:

- Clarification of the terminology on hazard and risk assessment is required together with additional guidance to help reduce the number of occupational disease incidents;
- Smart legislative design of the current process for setting European Union's occupational exposure limits to bring more harmonisation across the EU;

CII:

POLICY RECOMMENDATION

Enhancing the effectiveness of **Occupational Safety and Health** (OSH)

The CII presents recommendations on how to improve the effectiveness and workability of the current EU system for setting Occupational Exposure Limits (OELs), as part of the revision of EU Occupational Safety and Health (OSH) legislation.

Examples of CII proposals for OSH

- Setting of OELs:
 - Activity to be increased
 - Prioritisation to be informed by REACH activities
- Additional resources:
 - For DG EMPL and SCOEL
- Enhanced role for ACSH
 - E.g. consensus in ACSH → fast-track procedure for getting OELs adopted
- Benefit from information gathered under REACH to speed up OSH Impact Assessments

OUR PROPOSAL:

**COOPERATION TO ENABLE SWIFTER SETTING
OF OELS**

Proposal

(Informal) Forum to explore potential areas of cooperation:

- Possible strengthening of OSH
- Establishing a framework, in which Trade Unions, Employers and substance-specific experts can discuss in preparation of formal discussions on appropriate levels of OELs in ACSH:
 - Enhanced mutual understanding and opportunity for real consensus in ACSH
 - → Potential for speeding up the setting of the OELs
- Discuss when and how OSH is a sufficient RMO
- Other topics, as may be agreed in the forum

DISCUSSION

FIND OUT MORE ON OUR WEBSITE:

WWW.CII-REACH-OSH.EU

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