

SCIP database – a legal perspective

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ECHA SCIP workshop

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ECHA's power on SCIP scope – misconstruction

“Information requirements for Echa’s substances of very high concern (SVHCs) database surpass legal boundaries set under REACH [...].

[...]

Fields requiring information on material categories, place of production and concentration ranges are **not stipulated** in REACH [...], and are **simply interpretations made by Echa** of what constitutes ‘other information’ to allow safe use”.

Source: An industry view summarised in a ChemicalWatch piece entitled “Echa SVHC database ‘exceeds legal boundaries’” (Sept. 2019)

Interpretation – the objective is key

“59. According to settled case-law, in interpreting a provision of EU law, it is **necessary** to consider **not only its wording** but also **the context** in which it occurs and **the objectives** of the rules of which it is part [...]

60. In addition, since the textual and historical interpretations of a regulation, in particular of one of its provisions, do not permit its precise scope to be assessed, the legislation in question must be interpreted by reference to both **its purpose and general structure** [...]

Source: Judgment of the General Court 28 September 2016, United Kingdom / Commission (T-437/14)

which referred to settled caselaw such as: judgment of the Court of Justice in 7 June 2005 in C-17/03, § 41; judgments of the Court of Justice of 31 March 1998 in C-68/94 and C-30/95, § 168, and of 25 March 1999 in T-102/96, § 148

The definition of the objectives

- New Article 9 of WFD:
 - Ref. to Article 33 of REACH and explicitly to ‘consumers’ as recipients of the information
- Recital 38, Directive 2018/851:
 - “for the **development of non-toxic material cycles**”

Need for precise information to **effectively**...

- Yield more information on SVHCs for public authorities to potentially restrict
- Ensure adequate risk management including at the waste stage
- **Empower consumers** and business operators to make informed purchase choices (i.e. SVHC-free)

SCIP DATABASE – NGO'S PERSPECTIVE

Elise Vitali
Project Officer on Chemicals



EEB

European
Environmental
Bureau

EEB' S EXPERTISE

Non-governmental organisation based in Brussels

Environmental citizens' organisations in 30 European countries with over 150 members

Over 40 years of EU environmental policy expertise covering:

- Climate and Energy
- Nature and Sustainable Agriculture
- Resource Efficiency
- Sustainability and Governance
- Global and Regional Policies
- Industry and Health

RELEVANT POLICY INITIATIVES



- OECD 2018 focus session information systems on chemicals in products
- [SAICM](#) 2018 Options for effective governance of the Beyond-2020 Framework for sound management of chemicals and waste

“traceability of chemicals must be destined to inform throughout their life-cycle by 2035, prepare and adopt global standards, contributes to sound management of chemicals and waste”



- European Commission’s Communication on the Interface between chemicals products and waste recognising the need for information on chemicals in products

EXISTING TOOLS

- [AskREACH](#) application developed with 20 partner organisations and
- Non exhaustive commercial/ b2b tools: HPDC (open standard), The Compliance Map, BOMcheck, SiliconExperts: but none of these tools are centralised/harmonised



Scan Barcode

(environmental health NGOs, consumer associations)

1. Why we think the database is needed
2. Examples of NGO support for traceability tools
3. Our vision for a SCIP database

THE NEED FOR THE SCIP

A circular economy requires information on materials along the supply chain:

- Supports innovation towards safe alternatives
- Can we reasonably foresee any other option for traceability?

Ikea and H&M aim to become 'circular businesses' by 2030, which will involve only using recycled or renewable materials. Achieving this "presents several industry challenges, such as lack of knowledge about the chemical content within recyclable textile," Ikea said.

November 2019

Allows the identification of substances of very high concern at earlier stage

ADDED VALUE PER USER TYPES

Consumers and Citizens	Authorities	Companies	Waste handlers
<ul style="list-style-type: none"> - Make informed purchasing decisions - Enforce their right to know to which substances they may be exposed to - Potential for reduced exposure 	<ul style="list-style-type: none"> - Supporting obligation to protect citizens - Enforcement, market surveillance - Informed policy decisions - Prioritise concerns 	<ul style="list-style-type: none"> - Permit risk management measures throughout the whole supply chain - Facilitates compliance - Facilitates circularity and decontamination 	<ul style="list-style-type: none"> - Permit (informed) risk management measures - Potential for reduced exposure - Improved sorting - Share the responsibility burden throughout the Supply chain

Danish Consumer Council use the Danish database with products containing SVHCs – we can use this info to help consumers make informed choices – ‘See which products contain chemicals of concern before you buy’, we can do tests to see if the chemicals are in there, and also test to see if the chemicals are taken out if the producers claim so.

Chemsec report demonstrating the need to address chemicals (throughout the whole supply chain) in the circular economy thanks to content declarations, traceability of chemicals : The Missing Piece – Chemicals in Circular Economy;



The Swedish Society for Nature Conservation (SSNC) stresses that transparency about chemicals used in materials/articles is at the core of safe chemical management, including management of materials in the circular economy. Reports: All you (don't) want to know about plastics (2014), Missing pieces (2016), Towards a safe circular economy (2018).

HEJSupport Campaigns on chemicals in products, demanding traceability of chemicals; represents NGOs in the UNEP (SAICM) chemicals in products programme on behalf of IPEN - NGO paper on chemicals in products; represents NGOs in the chemicals related working groups of the German Sustainable Textile Alliance

41-NGO [letter](#) “strong support” to the database (in 2018)

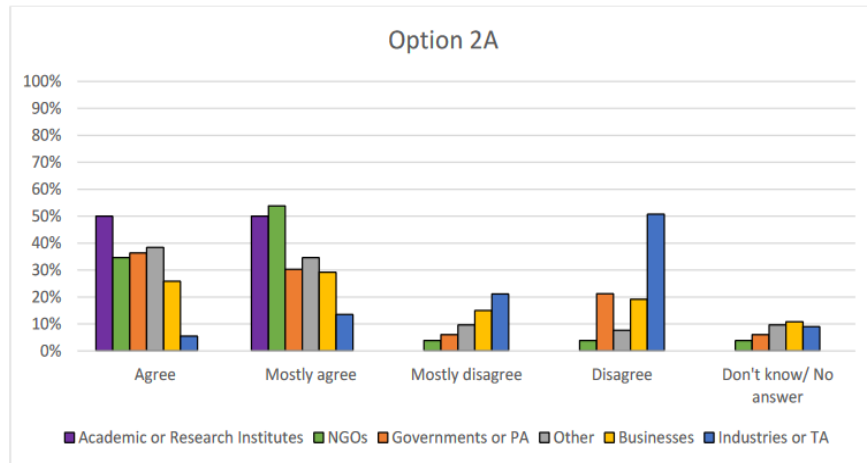
- Making information public on the presence of SVHCs is indispensable and widely recognised at EU and International levels
- Contributes to effective implementation of chemicals regulations: SVHCs-related obligations existing since 2007



INTERFACE BETWEEN CHEMICAL, PRODUCTS AND WASTE

Challenge 2: Tracking substances of concern

Option 2A - all substances of concern should be tracked by a set date.



While most of stakeholders strongly supported this option, Industries and Trade Associations significantly disagreed with the establishment of a set date to track all substances of concern, with 72% being against this option.

4.1.2. Policy Objective and Options

The policy objective is to ensure that appropriate information on substances of concern in products is available to all actors in the supply chain and ultimately also becomes available to waste operators. This will contribute to the promotion of non-toxic materials cycles and improve the risk management of chemicals during repair, reuse, remanufacture and in the waste recycling process.

OUR VISION

Future-proof database:

- Adaptable to full content declarations: the future is transparency;
- The more data, the more usefulness for third parties and developers (recycled content?)
- Possibility to export data to other softwares, apps, etc (*example of Yuka app, open food facts, askREACH*)

The EU's Council of Ministers has called on the European Commission and Echa to implement measures, to ensure that by 2030 substances of concern in materials – including those in imported articles – can be traced through the entire supply chain. This includes end-of-life operations.

June 2018

CHALLENGES AHEAD

- How to ensure proper article identification for consumers
 - Make all information available, third-parties will select
 - The database should be an enabler to AskREACH app
 - Adaptability to scanning technologies: will identification number be scannable?
- Database to feed into circular economy initiatives on information systems supporting circularity of materials and products

CONCLUSION

- Time for businesses to adapt, and the trend is going in that direction already (authorities and commercial tools)
 - Various developments ongoing on traceability of chemicals and information systems, ECHA taking the lead for a harmonised tool
 - Economic benefits of avoiding duplication and incompatibilities of various b2b systems
- Positive instrument to support substitution and enhance circularity
- Member States will have to address non-compliance



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THANK YOU!

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