REACH and the Chemicals Strategy for Sustainability

What is REACH?

The REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) regulation is the fundamental pillar of EU chemicals legislation. It applies to all chemicals above 1 ton per annum on the EU market and requires manufacturers to register and provide data on their chemical substances which are then subsequently evaluated by authorities. This framework legislation regulates the manufacturing and the management of the use of chemicals, which includes virtually all ingredients used in paint, printing inks and artist colors.

What is the issue?

Several changes to the REACH regulation are being proposed under the Chemical Strategy for Sustainability (CSS)[i], part of the EU Green Deal. The aim of the changes is to improve safety and sustainability, but we are concerned that those changes would lead to a severe reduction in the number of substances available for use in paints and printing inks, with negative consequences for our industry and the wider sustainability of the European economy.

What are the changes being proposed?

There are several key changes being proposed:

- Changes to the Classification, Labelling and Packaging (CLP)ii regulation for chemical substances and mixtures that would add more hazard classes.
- A shift from a risk-based to a hazard-based approach for chemicals management, called the Generic Risk Management Approach (GRA)iii, except where their use is deemed essential - the Essential Use Concept (EUC)iv. Thereby uses that will be deemed non-essential will not be available in Europe even if they are safe (because the ban would be simply based on hazard, i.e. only the potential to cause a harm).
- The GRA would make no distinction between the use of products such as coatings by trained professionals, who know how to manage risks, and consumers.
- A proposed Mixture Assessment Factor (MAF)v would seek to address the issue of “combined exposure” to chemicals – unintentional mixtures of different chemicals in the environment.

What are the potential effects of these changes?

There are several areas of concern: A shift from a risk-based to a hazard-based approach under GRA would inevitably lead to substances being withdrawn at a certain hazard threshold, irrespective of whether there is exposure or not or whether there are identified substitutes or not. The addition of new hazard classes to the CLP regulation for chemical substances and mixtures could lead to many additional substances being withdrawn. The EUC does not focus on a particular substance, but on whether the overall product/service it supports is essential for society, without a clear definition of how essential use is decided and by whom. The MAF could lead to further restrictions if applied to chemicals that would not normally be combined in paints or printing inks.

Why is it such a problem for the paints and ink industry?

Paints and inks consist of many ingredients, more than most other formulated products in the EU. The loss of one ingredient can make a product unviable or, at least, less effective. As the REACH revision reduces the number of available ingredients, a massive impact is expected on the industry. This has been substantiated by an impact assessment by Cefic / Ricardo[vi] and CEPE's own calculations.

The GRA would also seek to eliminate certain hazardous materials used in paints applied by trained professionals that are essential for maximizing protection and longevity. Once in place and fully cured, these coatings are non-hazardous and provide no threat to human health or the environment while ensuring sustainable benefits (protection, design, marking).

Are there alternative ingredients available?

It is standard procedure for industry to seek alternatives to harmful substances, but research is a time-consuming and expensive task. The replacement requirements arising from the REACH revision are likely to be too demanding in too little time. Unavailability of numerous paint products and the associated loss of protection of millions of goods could be the consequence.

What would the effect of all this be on business and society?

Paints provide significant benefits to society. They contribute to many sustainability objectives of the EU Green Deal, for example by providing protection from degradation (corrosion, abrasion, high or low temperatures, chemicals and ultraviolet rays, moisture, and microbes), resulting in prolonged product use and reduced waste. Decorative paints and artists' colours also contribute to well-being and mental health. Printing inks are needed for all printed products (e.g. books, newspapers, (food) packaging) and are used for education, guidance and safety.

What should be done about it and why?

- We believe that the current system already has the necessary tools to address the aims of the EU Green Deal and the CSS.
- We need to ensure that the new CLP additions align with the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals (GHS) and has controlled impact on all existing EU chemical legislations that refer to it.
- The GRA should be extended only with careful examination of potential consequences and with a robust analysis of alternatives. Time should be allowed for innovation.
- There should be a different approach for coatings used by trained professionals versus consumer use. Chemicals legislation should not take the place of Occupational Safety and Health legislation.
- The MAF proposal should also be targeted to focus on risk. REACH already provides a sufficient level of protection against cocktail effects, notably with its risk assessments based on reasonable worst-case assumptions.

What is the opinion of CEPE regarding the delay in the revision of REACH?

The new deadline presents an opportunity to discuss the key proposals in greater depth. The original consultation phase was very tight, making it difficult to properly assess how they could be implemented and the implications on our industry. This is critically important given that paints and printing inks are among the sectors the most impacted by the REACH revision.

ANNEX

[i] CSS – The Chemicals Strategy for Sustainability towards a toxic-free environment sets out the new long-term vision of the EU for chemical policy.
https://ec.europa.eu/environment/pdf/chemicals/2020/10/Strategy.pdf

[ii] CLP – CLP is the EU Regulation for the classification, labelling and packaging (CLP) of chemical substances and mixtures and stems from the United Nations' globally harmonised system (UN GHS).

For further information: https://echa.europa.eu/regulations/clp/understanding-clp
For the legal text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008R1272
Consolidated version: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02008R1272-20220301

[iii] Generic Risk Approach (GRA) – The generic approach to Risk Management is actually a hazard-based approach and stems from article 68(2) of REACH. Article 68(2) specifies that substances which meet the criteria for classification as carcinogenic, mutagenic or toxic to reproduction, category 1 or 2, and could be used by consumers can be subject to a restriction. The European Commission is proposing to extend this provision to other hazard classes and to professional users. https://single-market-economy.ec.europa.eu/system/files/2021-11/Background%20paper%20authorisation%20and%20restrictions%20workshop%2012%20Nov_FINAL.docx.pdf

For the legal text of REACH: https://eur-lex.europa.eu/search.html?scope=EURLEX&text=REACH&lang=en&type=quick&qid=1661331344428

[iv] Essential Use Concept (EUC) – The EUC aims at only allowing the use of the most harmful chemicals if their use is necessary for health, safety or is critical to the functioning of society of if there is no alternatives that are acceptable from the standpoint of environment and health.
https://environment.ec.europa.eu/events/stakeholder-workshop-concept-essential-uses-2022-03-03_en

[v] Mixture Assessment Factor (MAF) – MAF is an additional safety factor that can be applied in the risk assessment of single chemicals, in order to generically cover for combined exposure without performing a mixture-specific assessment. https://ec.europa.eu/environment/pdf/chemicals/2020/10/SWD_mixtures.pdf

[vi] Impact Assessment by Cefic / Ricardo – https://cefic.org/app/uploads/2021/12/Economic-Analysis-of-the-Impacts-of-the-Chemicals-Strategy-for-Sustainability-Phase-1.pdf