

## FEEDBACK TO EUROPEAN COMMISSION CHEMICALS STRATEGY FOR SUSTAINABILITY ROADMAP

# CLARIFICATION OF REACH/OSH INTERFACE AND IMPROVED RMOA PROCESS: KEY FOR CHEMICALS SUSTAINABILITY

June 2020

*The Cross-Industry Initiative for better regulation in chemicals management ('the CII') welcomes the European Commission's intention to present a Chemicals Strategy for Sustainability ('the Strategy') in 2020, as announced in the [European Green Deal](#). The Strategy aims to combine better health and environmental protection with increased global competitiveness, as stated in the Green Deal and the Strategy's [Roadmap](#). The Strategy will build on recent policy evaluations and initiatives associated with the EU chemicals legislation – in particular the second REACH Review, which had identified a set of priorities and actions to improve EU chemical policy, including **the clarification of the interface between REACH and occupational safety and health ('OSH') legislations**.*

*In the Strategy, the Commission will review how to use better the EU's agencies and scientific bodies to move towards a process of 'one substance – one assessment' and to provide greater transparency when prioritising action to deal with chemicals. The CII believes that **improving the predictability and consistency of Risk/Regulatory Management Option Analyses ('RMOAs')** would enable the Commission to reach these objectives and could contribute to clarifying the interface between REACH and OSH legislations.*

### **Clarifying the REACH/OSH interface**

The CII appreciates that the Commission Roadmap acknowledges the **fundamental role chemicals play in modern societies**. Chemicals are becoming ever more essential in the context of the Commission's 2050 climate neutrality goal and other Green Deal-related targets, notably the energy transition and energy efficiency, the achievement of which is dependent on strategic value chains such as batteries and catalysts. These sectors are reliant on chemical substances to provide innovative technologies.

To enable such technologies, the CII considers that **the Strategy should aim to ensure coherence and synergies between chemicals legislation (i.e. REACH) and related Union legislation, particularly OSH**, in line with the second REACH Review and with the [Council conclusions](#) of 10 December 2019. The Council called on the Commission to clarify the interface between the OSH, REACH and CLP legislations and to improve coordination by developing transparent procedures and criteria to be used when selecting the most appropriate substance specific regulatory options.

While REACH is rightly established as the regulatory pillar of EU chemicals management and has strongly contributed to knowledge about the use and effects of substances, the CII believes that REACH Candidate Listing and Authorisation should not be considered as the preferred option when potential risks from a substance have found to be limited to the workplace and can be more effectively addressed by workplace-specific legislation. For instance, this is the case of industrial and automotive batteries which are sealed units that are effectively recycled at end-of-life. Adding REACH Authorisation on top of workplace legislation would not add any layer of protection for workers and would instead, *inter alia*, have detrimental impacts on the competitiveness of production sites, Research and Development and the recycling sector.

In our view, OSH: (1) more holistically addresses potential risks at the workplace by also covering uses which are not in scope of REACH Authorisation; (2) prescribes the principle of substitution for hazardous substances; and (3) directs investment towards enhanced protection of workers, instead of allocating these resources to the preparation of complex applications and the payment of application fees – and is in this respect more cost-efficient than REACH Authorisation. Moreover, opting for OSH enables the achievement of other policy objectives under the European Green Deal, such as energy transition, energy efficiency and a circular economy.

Against this background, the CII calls for the **Strategy to acknowledge the need to clarify the interface between REACH and OSH and propose a set of actions to solve this issue.**

Moreover, as the Strategy aims to support other Commission priorities including fighting cancer, the CII calls on the Commission to **highlight the important role of the OSH legislation in the prevention of work-related cancers.** To this end, we suggest the Strategy foresees **setting more binding OELs** at EU level to protect workers exposed to carcinogenic substances.

### **Improving predictability and consistency of RMOAs**

To reconcile the EU's climate and competitiveness objectives with the aim of sustainable chemicals management, the most suitable risk management option for chemical substances needs to be identified early in the regulatory process. The CII, therefore, recommends that **the Strategy stresses the role of RMOAs in enabling better decision-making around the regulation of risks associated with the use of chemical substances.** Moreover, the CII believes that **the Strategy should acknowledge the potential of RMOAs to support the implementation of a 'one substance – one assessment' process,** as they are the ideal tool to obtain clarity as to which risk management option(s) could be preferred and could ensure integration between different pieces of chemicals legislation, as well as the involvement of competent authorities as appropriate.

Since 2013, RMOAs have ensured better chemicals risk management decision-making. However, as they are conducted by different authorities (either ECHA or Member State Competent Authorities) with no official guidance published, authorities and industry jointly struggle to gather the necessary data for an RMOA. This results in delays and very limited data being considered, which makes the outcomes less reliable and the process more prone to lead to disproportionate conclusions.

To address this and other challenges, the CII recommends that **the Strategy conveys the need for a clear framework for RMOAs,** ideally by setting criteria for a robust RMOA. Such criteria could specify: (1) the nature of data to be considered in the RMOA process; (2) a standardised risk assessment framework; (3) impact assessment taking into account socio-economic aspects, as suggested by the Commission in the 2nd REACH review; (4) a set of criteria to help choosing the most appropriate risk management option, considering that the most appropriate risk management measures could be achieved through other sectorial regulatory frameworks such as OSH or Water Framework Directive (WFD); and (5) recommendations for consulting stakeholders during the RMOA process.

A more consistent and predictable RMOA process could help improve the prioritisation of the most appropriate risk management measures and materialise the European Green Deal's health and environmental objectives while making decisions related to chemicals management consistent with EU flagship policies. Simultaneously, improving the RMOA process could effectively contribute to the clarification of the REACH/OSH interface, in line with the second REACH Review and the Council Conclusions.

A [technical paper](#) (attached) developed by the CII analyses the current RMOA process and offers further details on the above suggestions as to how it could be further improved. Nonetheless, we are open to contributing to discussions on other tools that could be used to achieve the aim of streamlining and increasing regulatory coherence, without overburdening the authorities. Many of the points that we raised in the context of RMOAs can be relevant for such an alternative tool.

*The CII was set up in 2014-2015 as a European coalition aimed at streamlining chemicals management. It is currently comprised of over 60 organisations, associations, manufacturers, as well as downstream users of chemicals, large companies and SMEs who stand for using the most effective tool to manage risks caused by chemicals. The CII activities particularly focus on exposure to chemicals in the workplace and the interface between the EU legislation on Occupational Health and Safety (OSH) and the general regulatory framework for Chemicals (REACH).*

*To know more about our position and our proposals, please consult our website [www.cii-reach-osh.eu](http://www.cii-reach-osh.eu) or contact us at [info@cii-reach-osh.eu](mailto:info@cii-reach-osh.eu).*