

How would future enforcement activities work in practice: enforceability of broad restrictions and revocation of registration numbers



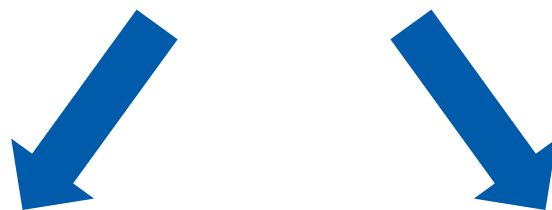
10/11/2021

ECHA Enforcement Forum Open Session

New rules announced in the EU Chemicals Strategy for Sustainability



“zero tolerance approach to non-compliance”



Ensuring that all products entering the EU including online sales are safe

Ensuring compliance of registration dossiers



More legislation to be proposed – how to make it work in reality?

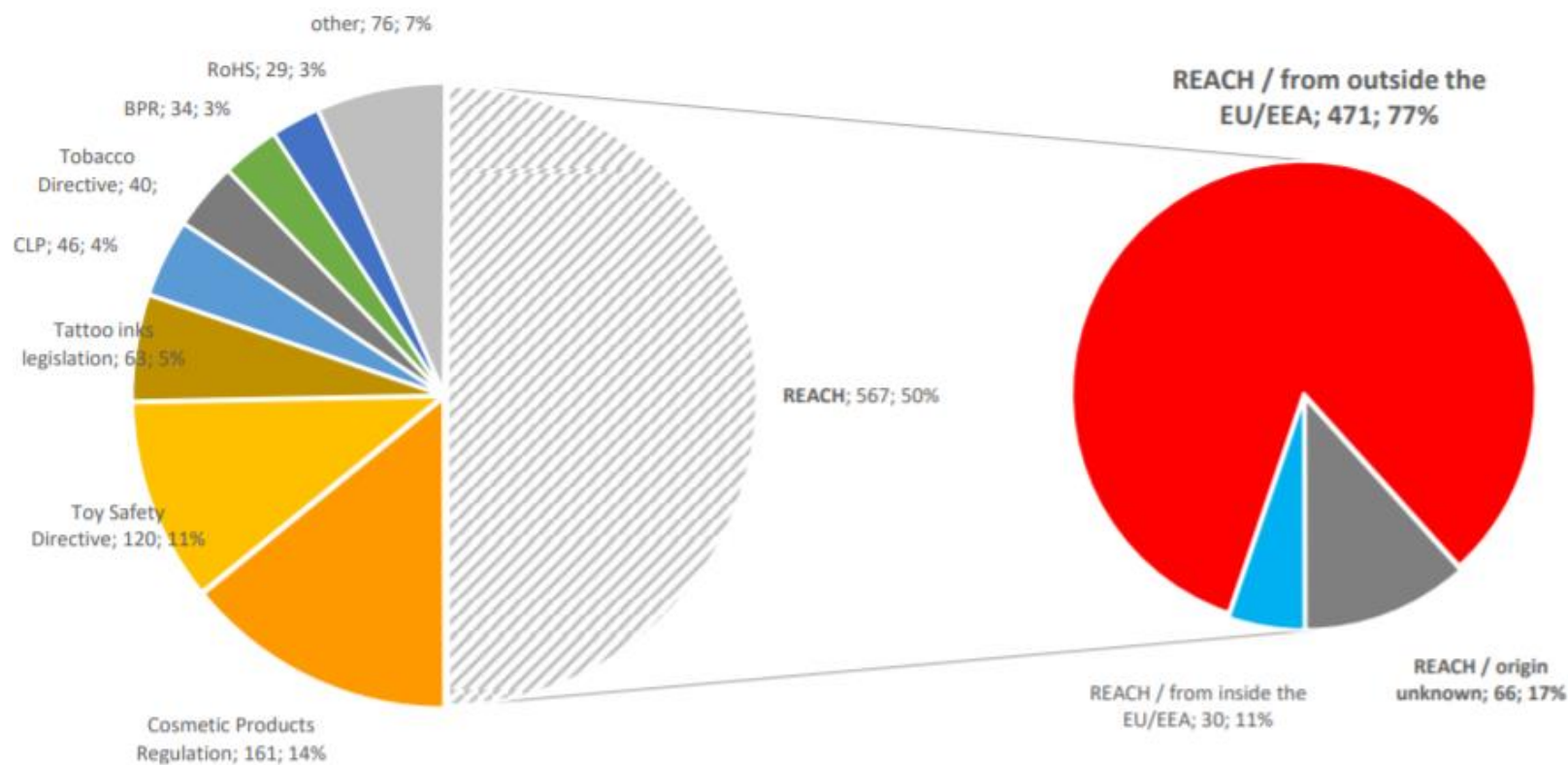


Enforceability of broad restrictions



Safety Gate (RAPEX): tip of the iceberg...

RAPEX 2020 – chemicals by law
(1136 instances)



- Close to 80% of non-compliances outside EU/EEA
- Increase in cases where the country of origin is unknown (17 % vs 4 % in 2019, likely due to increased online shopping)

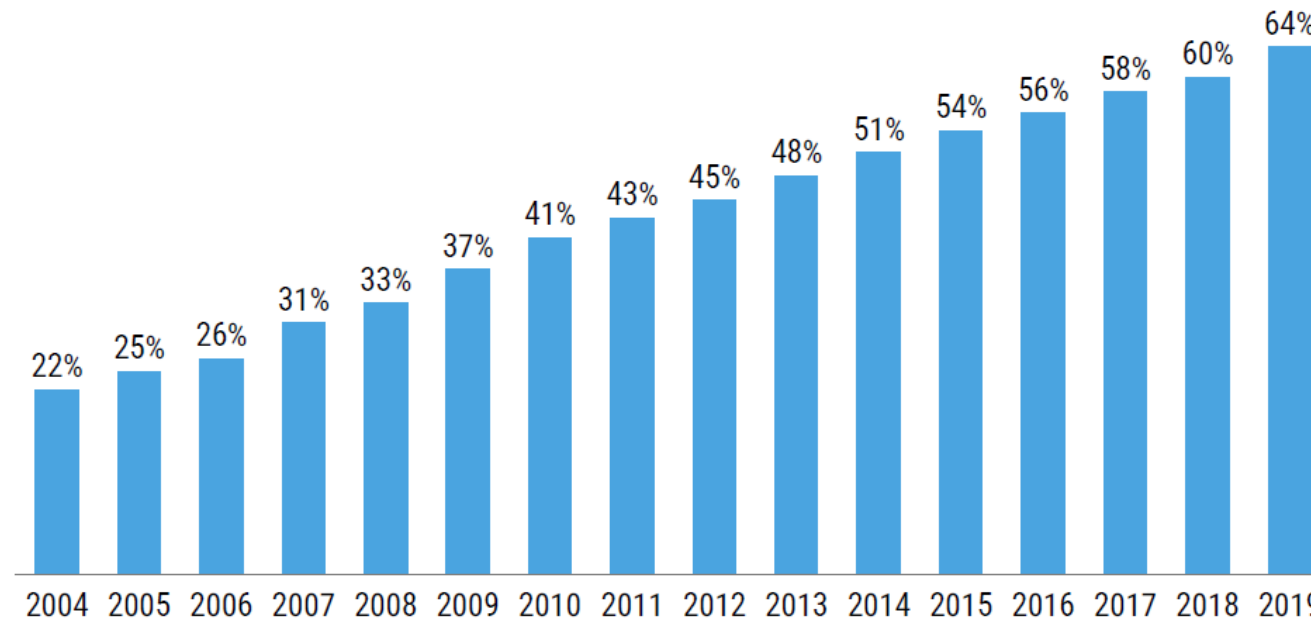


Online shopping increasingly popular

B1: Digital Transformation

European consumers are increasingly buying online...

Share of European adults who have made an online purchase in last 12 months (EU27 + UK, NO, IS, CH)



In 2020: online sales ↑↑
significantly (+55%)



Source: Eurocommerce

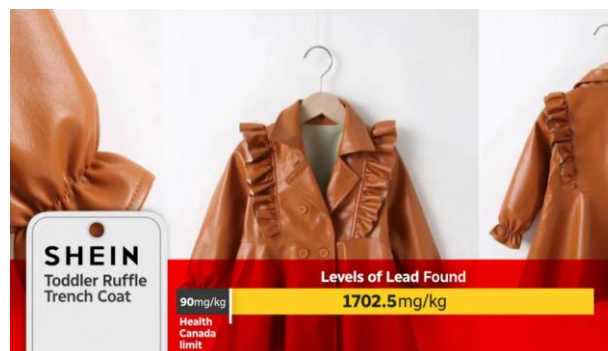
Online markets – a black box

Test of cheap jewellery: Nickel release exceeds limit values



Experts warn of high levels of chemicals in clothes by some fast-fashion retailers

Shein, AliExpress, Zaful stop sales of questionable products to Canadians following Marketplace investigation



Excessive levels of phthalates (321x higher than the EU-permitted level) found in a toy bought online



Danish tests reveal potential harm from private-use tooth whitening products

21 September 2021

High levels of hydrogen peroxide or low pH detected in more than half of items tested



CSS aims to raise the regulatory bar...

Future regulatory action will be:

- **faster**
- **broad** in terms of **scope** and **groups of substances**

...can enforcement keep up with the pace...



Enforcement

Regulation





The EU is not banning tattooing but is making the inks safer.

More than 4 000 hazardous chemicals in tattoo inks and permanent make-up will be restricted in the EU/EEA from early 2022.

According to the Forum, the restriction is enforceable if further development of methods for sampling and chemical analysis is undertaken

Higher burden and cost for testing of compliance could result in that less enforcement activities and controls

If adopted by the European Commission, this proposal would limit the use of over 1 000 skin sensitising chemicals (all those with a harmonised classification as well as some 'disperse' dyes considered to have skin sensitising properties) in clothing, footwear and other articles that come into contact with the skin, such as bed linen or upholstered furniture. As a result, many new



- Do Member States have the lab capacity, budget and resources to carry out controls on thousands of substances?
- Are standardized analytical methods available for all substances under the restrictions? If not, which test method to rely on?
- How will the market surveillance/enforcement authorities cope with online sales of tattoo ink and clothes?



Revocation of registration numbers



Stepping up level playing field at EU level

Today

- In certain cases, during dossier evaluation, ECHA sends a compliance check decision for additional data to the registrants
- In case when the registrants do not respond to the draft decision, ECHA informs the relevant Member State
- Respective NEA may consider enforcement measures in (lead) registrants' Member State



Tomorrow

- In certain cases, during dossier evaluation, ECHA sends a compliance check decision for additional data to the registrants
- In case when the registrants do not respond to the draft decision, ECHA will have powers to revoke the registration number
- The decision is applicable at EU level



No place for “free-riders”

- Cefic welcomes the introduction of a revocation process
 - “free riding” behaviour whether on imports or registration dossiers must be deterred
 - Boosting of level playing field and chemical safety
- Voluntary *Cefic Dossier Improvement Action Plan* → proactive review and updates of dossiers



Elements to consider in the new system:

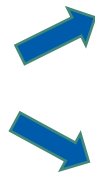
- Clear conditions
- Legal rights
- Due process



Effective enforcement



→ Role of the ECHA Forum



How to strengthen its role on enforceability of future restrictions?

How would NEAs coordinate enforcing revocation decisions?



Thank you

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About Cefic

Cefic, the European Chemical Industry Council, founded in 1972, is the voice of large, medium and small chemical companies across Europe, which provide 1.1 million jobs and account for 15% of world chemicals production. Cefic members form one of the most active networks of the business community, complemented by partnerships with industry associations representing various sectors in the value chain. A full list of our members is available on the Cefic website.

Cefic is an active member of the International Council of Chemical Associations (ICCA), which represents

chemical manufacturers and producers all over the world and seeks to strengthen existing cooperation with global organisations such as UNEP and the OECD to improve chemicals management worldwide

