

## CLARIFICATIONS ON THE CURRENT LEGAL SITUATION WITH REGARD TO THE PRESENCE OF THE PHTHALATES DEHP, BBP AND DINP IN CHILDREN'S CLOTHING - MARCH 2009

*Information extracted from a written clarification to ECPI provided by the European Commission's Enterprise and Industry Directorate-General in March 2009*

- Current EU legislation restricts the presence of DEHP, BBP and DINP phthalates in toys and childcare articles. DEHP and BBP are also restricted as parts of chemical mixtures intended for the sale to consumers. **There is no restriction on DEHP, BBP and DINP in children's clothing.**
- **DEHP and BBP** have been identified as Substances of Very High Concern (toxic for reproduction, category 2 in both cases) and have been included in the **candidate list for authorisation**.
- The inclusion into the candidate list triggers the immediate application of some **legal obligations for brand-owner's and retailers**: EU or EEA suppliers of articles (in the specific case children's clothing) which contain substances included in the candidate list in a concentration above 0.1 % (w/w) have to provide sufficient information, available to them, to their customers or upon requests, to a consumer within 45 days of the receipt of the request. This information must ensure safe use of the article and as minimum contain the name of the substance.
- From 1 June 2011 the **presence in articles** of substances in the candidate list will have to be **notified to the European Chemicals Agency (ECHA)** if the substance is present in those articles in more one tonne per producer or importer per year and if it is present in those articles above a concentration of 0.1% weight by weight.
- Substances on the candidate list may subsequently become subject to **authorisation** by a decision of the European Commission (regulatory procedure with scrutiny by the Council and European Parliament) on the basis of a recommendation prepared by the ECHA by 1 June 2009. ECHA is conducting a public consultation on its priority setting of substances and on the first draft recommendation of substances to be included in Annex XIV of REACH which currently contains both DEHP and BBP. The closing date for comments is 14 April 2009.
- **DINP** has been subject to a rigorous risk assessment in the framework of the Existing Substances Regulation, which concluded that it **did not fulfil any of the criteria identified in Article 57 of REACH**.
- In line with the provisions of Article 2 of Directive 2005/84/EC on phthalates in toys and childcare articles, the Commission is in the process of conducting, until 16 January 2010, a re-evaluation of the measures contained in the Phthalates Directive in the light of new available scientific information.