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ENTERPRISE DIRECTORATE-GENERAL

Environmental aspects of enterprise policy, resource-based & specific industries
Chemicals

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Mr Tim Edgar
Deputy Director, ECPI
Ave E. Van Nieuwenhuysse 4 bx 2
B-1160 Brussels

Subject: Marketing and Use Directive

Dear Mr Edgar,

In your letter of 17 Nov 2003 you mention that the inclusion of the phthalates DEHP and DBP in the 25th Amendment of Directive 76/769/EEC has led to some misinterpretation.

You point out that this Amendment relates to CMR (carcinogen, mutagen, reprotoxic) substances, which were classified as such by the Classification and Labelling Directive 67/548/EEC.

On 20 December 1994, the scope of the Marketing and Use Directive 76/769 was extended by adding special restrictions on CMR substances. This has by now become a routine procedure for substances which have been previously classified CMR. However, unlike other restrictions under Directive 76/769, these restrictions only relate to the use in substances and preparations placed on the market for sale to the general public, but not, as you correctly point out in your letter, to the use of these substances in articles.

For example, after the coming into force of the 25th Amendment of Directive 76/769 it is no longer allowed to sell paint containing any of the listed substances in a do-it-yourself store, because paint is a preparation and would be acquired by members of the general public. Nevertheless, such paints can still be sold for professional use because it is assured that professional users will take appropriate measures. Similarly, as long as no other legislation limiting their use is in force, DEHP and DBP can be used by manufacturers as plasticisers for articles such as automotive parts made from PVC.

I hope that this explanation will help to clarify the matter.

Yours sincerely,

Reinhard Schulte-Braucks
Head of Unit