

proposal would lead to lengthy procedures for inclusion of new substances. Furthermore, it does not have processes for public participation specifically engrained in the directive, the current export group includes stakeholders but is unofficial. Finally, the proposal does not take the protection of our children as its highest aim, if it did, it would apply the precautionary principle.

Our demand, apply the precautionary principle, the comitology procedure and engrain public participation:

- Base the directive on precautionary principle, if there is a doubt, protect the children, and through reversion of the burden of proof, request industry to prove that the substances used are safe, before allowing their toys on the market.
- To keep the directive up to date and to make it possible to adapt it quickly to emerging risks, we demand to introduce the Comitology procedure, which means that new substances can be covered under the directive, without having to pass the procedure of a full revision of the directive.
- Furthermore, the directive should assure major stakeholder participation in all its bodies and processes, or the creation of a consultative multi-stakeholder committee (as for the Energy Eco-Design directive)<sup>10</sup>.

**We call on the Members of the European Parliament and the Council to take full responsibility for the protection of Europe's children, by not allowing our children to be exposed to dangerous chemicals which can create lifelong health damage, and damage of the children's children, in toys. All the scientific data is there to take a responsible decision, and change the toys directive to fully protect our children's health.**

Strengthening the toys directive will give incentives to the European toys industry, – which has started voluntarily substituting hazardous chemicals in their products, and even in some cases brought back jobs to

Europe (as the recent retreat from China by Steiff, as they could not guarantee toy safety in their Chinese production), – and will create a more balanced playing field for safe European toys on the EU and worldwide markets.

In the sense of the Lisbon Agenda, of making the EU the most competitive economy of the world, innovation in the areas of green chemistry for safe toys, should be encouraged, and high penalties for placing of unacceptable products on the market should be installed.

Finally, Europe has a leadership role in the world, and should take responsibility for assuring that recalled toys from the European markets are not sold to children in third countries.

**We, Women in Europe, count on the European Parliament and Council, to take our concerns seriously, and take our children's health at heart.**

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<sup>1</sup> In the summer of 2007, 18 million toys were recalled worldwide, 417 in the EU. Source: RAPEX annual report 2007, see p 19 and section 4.1 of [http://ec.europa.eu/consumers/safety/rapex/docs/rapex\\_annualreport2008\\_en.pdf](http://ec.europa.eu/consumers/safety/rapex/docs/rapex_annualreport2008_en.pdf)

<sup>2</sup> COM(2008)9-2008/0018/COD

<sup>3</sup> Draft Report on the proposal for a directive of the European Parliament and of the Council on safety of toys (COM(2008)0009 – C6-0039/2008 – 2008/0018(COD)) Committee on the Internal Market and Consumer Protection Rapporteur: Marianne Thyssen

<sup>4</sup> EU legislation on dangerous substances and preparations Dir.1999/768/EEC

<sup>5</sup> 1999/0238 (COD)

DHI: Study on enhancing the endocrine priority list with a focus on low production volume chemicals, 2007

<sup>7</sup> See WECF position paper on nanotechnology [www.wecf.eu/publications](http://www.wecf.eu/publications)

<sup>8</sup> Resolution of the European Parliament from 26. September 2007 for product safety and especially safety of toys

<sup>9</sup> Federal environmental agency: Research study of circulation of environmentally determined contact allergies with focus on the private sector, 2004

<sup>10</sup> 2005/32/EC



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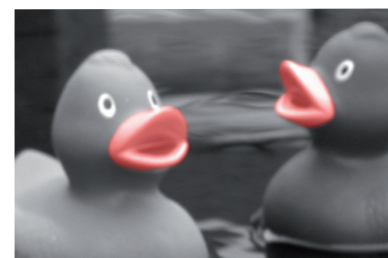
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## European toy safety directive – will children really be safe from hazardous chemicals in toys?

### Position Paper WECF

Women in Europe for a Common Future  
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### Toys bad for child health?

We live under the presumption that toys bought here in Europe are safe for our children. However massive recalls of toys in the EU (of 1,605 recalled produced the highest % were toys in 2007<sup>1</sup>), from reputed producers (Mattel, Fisher-Price, Toys R Us, Disney) show that this is not the case. Toys we buy in the EU can contain a number of highly toxic chemicals or allergens. 90% of the toys on the EU market are imported. The inspection of these toys is random, and to date no common European labelling system exists that allows parents to make informed choices and avoid toys which can harm their children's health.

### Toy directive outdated

The current European toy safety directive is 20 years old. The European Commission DG Enterprise presented a proposal for the revision of this toys directive on 25.01.2008<sup>2</sup>, "Proposal for a Directive of the European Parliament and of the Council on the safety of Toys". On 6.6.2008, the IMCO Committee under

Marianne Thyssen<sup>3</sup> presented a report with proposed changes to the Commission proposal. Considering the recent toy scandals, rapid technological developments in the toy industry, and the increase in imports of toys from countries with lower environmental and safety standards (75% of toys on the market in Europe originate in China), this revision is urgently needed.

### Setting standards for toy safety worldwide

The USA, like the EU, is discussing new regulations for toys after some shocking cases of toy recalls such as the 2007 Aquadots case, where it was found that the adhesive used was mistakenly replaced by the Chinese manufacturer with a chemical similar to the date rape drug rohypnol, and several children had seizures after ingesting the adhesive. Some US counties and states have already taken action on hazardous chemicals in toys. Discussions between the European Parliament and the Consumer Product Safety Commission (CPSC) in the US have begun. Europe and the USA are probably the largest markets for toy producers, so better toys safety legislation in the EU and USA will set standards for the entire world.

### Double standards

The same toys are being produced for different countries with different materials and of a different quality,

depending on the existing laws in those countries. Double standards must be eliminated in order to protect children in all countries from hazardous toys. To this date there is no regulation regarding what happens to recalled toys in Europe and the USA. It is most likely that these toys reappear on the market in countries with lower safety standards, e.g. in non EU Eastern Europe. WECF member organisations from Azerbaijan and Belarus report child health problems, such as allergies, from toys probably containing hazardous chemicals.

### A false sense of security: the misleading CE "label"

All children should be able to play safely with toys, without risking their health. However, children and parents do not know if the toys they buy are safe and free from hazardous substances. The CE toy marking, which most parents believe to be a guarantee for safety and quality, is meaningless. The European CE marking is attached by toy manufacturers themselves, and is not checked impartially. Parents are mistaken if they believe that the EU inspects toys. Also, unlike cosmetics, ingredients are not listed on toys, although many toys may contain known hazardous substances, proven to cause life-long health effects in children, including cancer and the development of the brain and reproductive organs.

## Children and babies are highly vulnerable

Children are a highly vulnerable group, both before birth as well as at the newborn stage and in early childhood. Due to their low weight and particular metabolism, children are much more sensitive towards harmful chemicals than adults. Children have narrower airways and a lower lung capacity, which add up to a much higher dose of contamination than in adults. Children's skin is five times thinner than an adult's skin, which accelerates the penetration by ingredients of hazardous substances into their bodies.

A November 2006 study in the Lancet concluded that up to one in six children could be developing neurodevelopmental disorders from exposure to at least 200 unregulated neurotoxic industrial chemicals, hazardous substances received from the mother during pregnancy. With already such a high dose at the start of life, everything should be done to protect children from further exposure to substances which damage their health in later stages of life. Many of the 200 substances identified are persistent and bioaccumulative, and will continue to accumulate during their lives, and passed on to their children.

## What changes to the toys directive are proposed, and what gaps are there?

### CMR chemicals are insufficiently regulated due to a loophole in the wording of the agreement

Gap in the toys directive proposal concerning CMRs:

The proposed changes to the EU toys-directive by the Commission prohibit, with some exceptions, the use of carcinogenic, mutagenic and reprotoxic substances, so-called CMR substances. However, the proposal allows for several exemptions;

- if no substitute exists for this substance
- if a scientific committee sees no dangerous implications
- If they are not prohibited in consumer items under the REACH Regulation

- CMRs in non-accessible parts of the toy are permitted. Furthermore, the Commission proposal always allows CMRs in toys below a certain level (0.1% of CMR substances of Category 1 and 2 and 1% for CMR 3), based on the regulations governing the chemical industry<sup>4</sup>.

### Our concern: the proposal would lower standards compared to existing EU policies:

The Commission proposal ignores the real dangers of children's exposure to CMRs, even in the smallest quantities. The reference to laws governing the chemical industry (the 1% and 0,1% limit) means a worsening compared to other EU directives. For example, the present EU limit for vinyl chloride in food-packaging is 1mg/kg, one thousand times lower than the legal limit for the chemical industry. The Thyssen proposal goes a step further, and calls for toys specifically intended to be put into the mouth, such as teething rings to follow the guidelines of the food directive.

The same Thyssen report proposes for toys which are intended to be put onto the skin, such as fingerpaint or makeup, to follow the guidelines of the cosmetics directive.

### Our demands on CMRs and toys:

- CMRs must be entirely excluded, there is no safe minimum level (amounts of 1% and 0,1% should not be allowed)

### Our Concern, small children are likely to put any toy in their mouth:

The strict limitation to toys which are purposely designed for use in the mouth or on the skin, ignores the fact that small children will often suck and chew any toys they come in contact with, not just teething rings.

### Our demands on CMRs and toys:

- Until a total exclusion of all CMRs from all toys and all parts of toys, the guidelines of the food and cosmetics directives must apply to all toys, not only for those that are intended to be put into the mouth or have skin contact.

### Our concern: CMR category 3

CMRs of Category 3, are always allowed in toys at 1% concentration, which is much higher than for CMR 1 and 2, and far too high according to many scientists. CMRs of Category 3 have been widely studied and shown to be very likely to cause carcinogenic, mutagenic and repro-toxic illnesses in humans. How many parents would knowingly expose their child to a very likely carcinogen?

### Our demand:

we support the Thyssen Report proposal to treat CMR 3 substances exactly the same as CMR 1-2, but without any exclusions. Therefore, all CMRs, including Category 3, must be excluded from toys without exception, and without any minimum levels being allowed.

### Our concern: CMRs can be emitted from the inner parts of a toy:

Currently the proposal would allow CMRs in the non-accessible parts of toys. However every parent knows that often, even if smaller or larger pieces have broken off a toy, the child will continue to play with it. Even if a toy does not break or loose parts CMRs can migrate from the inner non-accessible parts to the outer accessible parts.

### Our demands on CMRs in inner parts of toys:

- CMRs must not be allowed in non-accessible parts

### Other known very hazardous chemicals are not covered in the toys directive proposal

Gap in the toys directive proposal concerning very hazardous chemicals: None of the other known "substances of very high concern" (SVHC), such as for example endocrine disrupting, PBTs, vPvB, neurotoxins, but also emerging-risk substances such as nano-particles are to be excluded from toys in the current proposals, except if they are also CMRs. Although some phthalates like DEHP, DBP and BBP are already banned in some toys<sup>5</sup> – toys to be put in the mouth for children under three years – these and all the other known endocrine disruptors

are still allowed for use in all other toys. Recently a DHI study commissioned by DG Environment expands the EU list of priority substances with evidence of endocrine disruption from 66 substances to 194<sup>6</sup>. This list is nowhere mentioned in the proposals, neither in the Commission nor in the Thyssen report.

### Our concern: it is inconceivable that very well-known very dangerous substances, are not even mentioned in the proposed toys directive.

The evidence on the great health risks, particularly to children, of well known hazardous chemicals has already been integrated into other EU policies, such as policies on food, cosmetics and toys to be put in the mouth. Children put all sorts of toys in their mouth, and spend half their lives sleeping cuddled against some of these toys. On the contrary, the DG enterprise proposal gives instructions about non-flammability, could lead to an increased use of very hazardous brominated flame-retardants, instead of calling for moving towards alternative less flammable material, and safer flame retardants.

### Our demand: cover the other known hazardous chemicals

In addition to CMRs, also known hazardous substances such as phthalates and brominated flame retardants should be banned from toys these are:

- endocrine, hormone-damaging substances
- PBT (Persistent, Bioaccumulative and Toxic)
- vPvB (very Persistent and very Bioaccumulative)
- neurotoxins (which damage brain development)
- non-classified dangerous chemicals
- nano-substances<sup>7</sup> (until industry has proven that there are no long-term health risks)

At a minimum all chemicals named in the EU priority list must be prohibited in all parts of toys, without exception.

### Gap in the toys directive proposal concerning fragrances and allergens:

The Commissions proposal suggests that 38 allergenic fragrances should



be prohibited in toys. The Thyssen report, calls to increase this list from 38 to 64. In its resolution of September 2007, the European Parliament demanded a complete ban on fragrances in toys<sup>8</sup>, not just the 38 or 64 mentioned. Contact allergies are, after nickel, mostly caused by fragrances. A study of the German Environment Agency (UBA)<sup>9</sup> concluded that half a million Germans suffer from fragrance-allergy.

### Our concern, the list of allergens to be excluded is far too limited:

The list of 64 allergenic fragrances as proposed in the Thyssen report, is still too limited, there are more fragrances with allergenic impact and, in addition to fragrances, there are many more substances that can cause an allergic reaction. The proposal also does not include so-called sensitizers. Prohibiting the use of only some fragrances is not enough.

### Our demand, no allergenic substances of any kind in toys:

There is no need for fragrances in toys, and since most can cause allergic reactions, we demand that all fragrances, but also all allergens and sensitizers, should be excluded from toys

### **The CE toy "label" remains misleading** Gap in the toys directive proposal concerning labelling:

The Commission proposal does not make impartial testing and labelling for toys mandatory. Thyssen's report does propose that manufacturers be obliged to test the toys for possible dangers, but exactly how and by whom is not made clear. The recent massive recalls of toys, bearing the CE marking, have shown that inspection by an impartial third-party is essential.

### Our demand: independent toy labelling

The unlimited use of the CE marking by manufacturers should be abolished. We call for a Europe-wide toy labelling, provided by independent inspectors. The inspection must include checks on hazardous substances prohibited, the safety of the product (e.g. no parts that can be swallowed), and the working and production conditions. In addition, we do not want a prohibition of national toy labels, as long as a EU wide, strong, independent labelling system has proven to function well.

### **The directive is not in line with key EU policy principles**

Gap in the toy directive proposal: not based on the precautionary principle, no comitology procedure nor public participation

The Commission proposal does not foresee a sufficiently rapid-reaction mechanism to adjust the requirements based on new scientific knowledge. The Commission