


In order to avoid undermining the Commission's own Better Regulation principles and support the trust in the European regulatory process, we urge you to take measures to:

1. Postpone the notification deadline of 5 January 2021 to at least 12 months after the finalization of the database;
2. Ensure that the European Commission conducts a study on usefulness, feasibility, proportionality and impact of the SCIP database, and;
3. Instruct ECHA to adapt SCIP according to the outcome of this study.

We invite you to read the details in the annex available at the end of this letter.

We will follow up directly with your Cabinet to discuss what possibilities and powers the Commission President can make use of to resolve this difficult situation. A copy of this letter will be sent to the EU Commissioners Sinkevičius and Breton as well as to Executive Vice President Timmermans.

Yours sincerely,



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DETAILS

Contrary to the Better Regulation principles, Article 9.1 was added to the Waste Framework Directive (WFD) revision in the very last stages of the co-decision process **without any prior stakeholder consultation or impact assessment**. Economic operators such as importers, distributors and manufacturers are obliged from 5 January 2021 to provide information on the safe use of articles with certain hazardous substances to the European Chemical Agency (ECHA). This is mainly intended to enable waste operators to work efficiently towards a circular economy. For this purpose, ECHA is currently developing a central database (SCIP – Substances of Concern in Products).

The design of SCIP goes beyond what is legally required and results in a disproportionate burden on these economic operators. Furthermore, **benefits to the environment have not been demonstrated**. Obtaining the required information from international supply chains, validating it and transmitting it to ECHA will lead to enormous economic impact, with **costs in the billions**¹. Nearly all suppliers of articles, especially small and medium-sized enterprises will be severely affected.

Furthermore, the usefulness for waste operators has not been proven and is doubted both by those who are obliged to provide information and by the primary users of that information; the waste management industry^{2, 3}. **The proportionality of the obligation therefore is highly questionable**.

ECHA has **not met their legal deadline** to finalize the database of 5 January 2020, as required by the WFD. The delayed delivery of the finished system is preventing duty holders from developing and testing their own systems.

Consequently, **postponing the deadline** beyond 5 January 2021 is logical in order to solve the existing open issues and retain the 12 month lead time for compliance of duty holders, as intended by co-Legislators in Art. 9, WFD.

Discussions between experts from Member States and duty holders have made clear that all parties involved view the SCIP database design to be critical. However, there is still no solution in sight at the European level. This is despite **concerns being conveyed repeatedly** since 2018 to ECHA, the European Commission and the responsible departments in several Member States.

Instead, in response to the various concerns brought forward by stakeholders, ECHA has developed several technical solutions aimed at simplifying or reducing the notification duties and thus the burden to economic operators. Contrary to ECHA and Commission statements, most of these **solutions are not helping duty holders** but are instead adding additional burden or uncertainty.

As a consequence, in many **Member States the transposition is either delayed, or transposed differently**. An example of this includes Austria and the Netherlands, where the law makes no

¹ At the request of the European Commission in July 2020, estimates have been provided by several industries and are available through the Commission Services

² Position Paper of the German Waste Treatment Operators (BDE / BVSE / BDSV / VDM), September 2020

³ Technical Paper on the SCIP Database, EuRIC and Plastics Recyclers Europe (PRE), February 2020

reference to the database or the associated extended obligations. In a recent CARACAL paper⁴ ECHA recognized that “*Any deviations [from the Commission’s non-paper and the information requirements as set forth by ECHA] ... would distort the level playing field for industry across the EU*”. We share this concern of market distortion but wish to emphasize that such distortion is primarily a result of ECHA’s implementation.

In addition to the postponement of the notification deadline of 5 January 2021 we request a study on usefulness, feasibility, proportionality and impact both of Art.9, WFD, and of all information requirements beyond Art. 33(1), REACH Regulation.

Until such a study has been finalised, it is essential that the SCIP database respects the legal basis set by the REACH Regulation and the WFD. The scope of “**mandatory**” information must be limited to only what is legally required; all other information should be “optional”. This proposal does not exclude evolution of the SCIP database over time, provided that this carried out in accordance with good legislative and regulatory process, with effective consultation of stakeholders and with harmonization at a European level.

Our proposals serve the interests of the circular economy whilst protecting the European economy from market distortion. We therefore **call for immediate action** and ask the EU Commission to work quickly to find a feasible and proportionate solution.

***** END *****

⁴ CARACAL Paper #32, 6./7. Nov. 2019