



To: Members of the REACH Committee

Brussels, 14 November 2019

Re: Restriction proposal for lead stabilisers in PVC

Dear members of the REACH Committee,

We are writing to you regarding the **REACH Committee Meeting that will take place on November 19-20, 2019.**

A crucial discussion (and potentially vote) is planned during this meeting, on the Draft Commission Regulation amending **Annex XVII** to the REACH Regulation (EC) No 1907/2006 as regards **lead and its compounds** ('Lead stabilisers in PVC').

The undersigned NGOs support the Commission's proposal to restrict the use of lead in PVC as it will reduce emissions of this highly toxic chemical which **impairs neurobehavioral function, particularly as a result of childhood or fetal exposure and is linked to lower intelligence quotient (IQ). There is no safe threshold for lead exposure.** In fact, there is evidence that lead's impacts on children's neurodevelopment are greatest at the very lowest doses.¹

¹ Canfield et al (2003). "Intellectual Impairment in Children with Blood Lead Concentrations below 10 µg per Deciliter." New England Journal of Medicine 348(16): 1517–26. doi:10.1056/NEJMoa022848.

The restriction is feasible and affordable. Previous efforts to remove lead from PVC have been widely successful, and today most or all PVC sold in the EU is lead-free. ECHA rightly [concludes](#) that the investment, development, and testing costs associated with the restriction are “negligible”.

The EU PVC industry has today almost entirely phased out lead stabilisers. Most lead emissions from PVC sold in the EU today and in the future – around 90% – can be attributed to imported PVC articles.

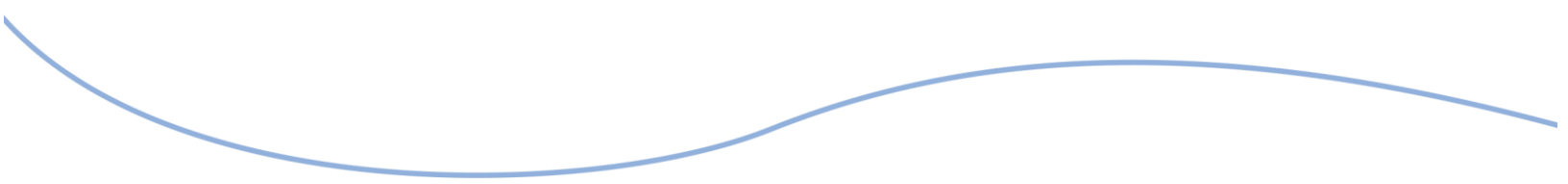
EU-wide action is necessary. Although most human exposure to lead is due to historical emissions due to disposal, especially by incineration, the use of recycled PVC made of lead contaminated legacy PVC is also a source of human and environmental exposure to lead.

However, the proposal is not protective enough for the following reasons:

- **The scope is narrow** as it excludes lead that is not used as stabiliser, such as leaded pigments. As acknowledged by the ECHA committees in the [final opinion](#), “Restriction of any lead present in PVC (regardless of intended function) would contribute to addressing the risks identified in the proposal. In addition, it might not be readily apparent why lead is present in an article, so specifying a particular use might not be helpful from an enforcement perspective (the Forum for enforcement indicated in their advice that the restriction will be simpler to enforce if enforcement authorities do not have to demonstrate the function of any lead detected in PVC above the relevant concentration limit)”.
- Also, **the current proposal will lower the level of protection** in Denmark, **since the national rules are more restrictive than the proposed EU limit values**. Moreover, it is obvious that stricter levels are possible since they are already implemented in Denmark and the industry started the phase out of lead in the 1980’s.

Furthermore, **we vehemently reject the proposed higher concentrations of lead in recycled materials (2% and 1% for rigid and flexible PVC recyclate, respectively) compared to virgin material (0,1%).**

This derogation raises three main issues.

- First, the proposal relies on flawed assumptions to conclude that recycling PVC containing lead will have a beneficial environmental and health impact.
 - Second, as a matter of fact this derogation goes against the EU objective to transition towards a circular economy.
 - Third, recycling is not an adequate waste management option for PVC containing lead.
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1- Flawed end of life assumptions lead to toxic recycling being promoted

The European Commission proposes a derogation to the restriction, **allowing a higher level of lead in recycled PVC** containing up to 1-2% (for flexible and rigid PVC) of lead compounds, weight by weight, i.e. **10-20 times more than what the proposal allows for virgin PVC.**

That proposal is based on the assumption that the disposal of PVC waste via landfilling and incineration are “alternative to recycling”. However, **recycling is not an end of life rather than a prolongation of life with its consequent additional releases during the new service lives in the different life cycles.**

After some number of service lives, lead-stabilised recycled PVC will need to be disposed of through landfilling or incineration. Hence, recycling of lead-stabilised PVC will actually increase the overall emissions of lead (given its longer service life) and delay but not prevent its eventual (landfilling/incineration) disposal and consequent emissions.

As explained in our comments to RAC and SEAC², we question the logic of the scientific reasoning behind this higher level of lead tolerated in the recycled PVC: the Annex XV dossier compared emissions of lead foreseen in three scenarios of end of life: incineration, landfill and recycling. But this comparison exercise is **structurally flawed since it assumes that recycled PVC will not, ultimately, be disposed of through landfilling or incineration and disregards the fact that PVC cannot be recycled forever.** The proposal therefore underestimates the release of lead into the environment in the full scenario including after it is recycled.

The assessment of releases of lead are calculated uniquely during the recycling process. However, **this assessment does not take into account, in the scenario where the PVC is recycled, the prolonged service-life and thus prolonged release of and exposure to lead, during the new use phase but also ultimately its end of life.** In response to this comment (see [RCOM](#) p. 59) ECHA stated: ‘it is correct that articles derived from recycling will have additional service lives with the accompanying emissions’ but ECHA didn’t re-do its calculations taking this into account.

Finally, PVC recycling rates are currently only around 10%³, and industry hopes to reach 20% by 2020; in either case, the vast majority of this leaded PVC will ultimately be disposed of through landfilling or incineration.

The Commission and Member States should therefore reject this derogation from the restriction proposal and/or ask ECHA to re-evaluate its assumption that recycling is the lowest-risk alternative by including the risks over all service lives of the recycled material. With these risks included, segregating lead-stabilized PVC and treating as hazardous waste may provide the lowest-risk alternative.

² ClientEarth: <https://www.documents.clientearth.org/library/download-info/clientearths-comments-on-echas-proposal-to-restrict-lead-compounds-in-pvc/> and EEB comments on annex XV report and SEAC opinion: <https://echa.europa.eu/registry-of-restriction-intentions/-/dislist/details/0b0236e180a40af7>

³ https://www.plasticseurope.org/application/files/6315/4510/9658/Plastics_the_facts_2018_AF_web.pdf and https://vinylplus.eu/uploads/images/ProgressReport2019/VinylPlus%20Progress%20Report%202019_sp.pdf

2- Contradiction with the circular economy agenda

The EU has embarked on a move towards a circular economy. The Commission's communication on the chemicals, products and waste legislations interface rightly charted a course towards non-toxic material cycles.

We recall that the Council Conclusions of [June 2018](#), [June 2019](#) and [October 2019](#) strongly highlight and encourage promoting **non-toxic material cycles/circular economy**. This should also concern eco-innovation achieving the detoxification of waste containing legacy substances, which is already possible for lead contained in recycled materials like PVC.

In addition, the related [Parliament resolution](#) called for 'the **same level of protection for human health and the environment, whether products are made of primary or recovered materials**'; reiterated that 'in accordance with the waste hierarchy, **prevention takes priority over recycling**'; that, accordingly, '**recycling should not justify the perpetuation of the use of hazardous legacy substances**'; and considered that '**all primary and secondary raw materials should be subject to the same rules**'.

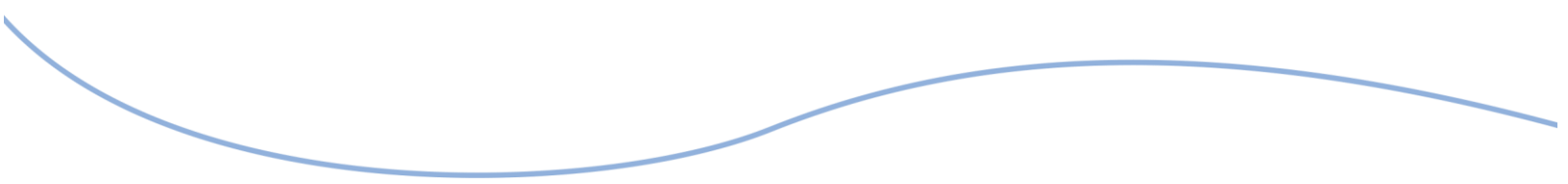
However, as we have pointed out before, **the recycling derogation is at odds with the EU's commitment to a circular economy**. This is only one example of a broader discrepancy between different EU policies described in a recent EC communication on the interface between chemical, product, and waste legislation. In fact, that report uses the problem of hazardous additives to PVC as an example of the challenge of "legacy substances".

The expertise of ECHA's committees leads them to emphasize a narrow view of the proposed restriction. Future risks from contaminated recycling loops are more difficult to calculate, and easier to discount. We invite the Commission to address this challenge of the interface between chemicals and waste, and that it will provide guidance on how these goals can be better integrated. Opening the recycling of PVC containing lead in the meantime is inconsistent with all the work done by the Commission so far and undermines all the efforts made (and public resources spent) to find a solution to this complex issue.

We therefore request the Commission and Member States to stop any attempt to granting double standards between recycled and virgin materials, until the political questions raised in the interface work are answered. Otherwise, all contributions by Member States, stakeholders, the Parliament and the Council during the different consultations would be meaningless.

Furthermore, **the presence of legacy chemicals and diverging standards place huge strains not only for recycling but even more for protecting people and the environment from exposure to hazardous substances**. The proposed derogation also drives up the costs of complying with legal requirements when using recovered materials and making virgin ones comparatively cheaper, safer and more reliable.

The proposed derogation will allow for continued contamination of the supply chain and consumer products far into the future, greatly weakening the effect of the restriction and undermining public trust and support to recycling.



3- Recycling is not an adequate waste management option for PVC

The concerns about PVC focus on chemical hazards associated with its [entire life cycle](#) - from production to disposal - including additives (not only lead) used for performance characteristics and applications.

PVC waste is and should be treated as hazardous waste hence should not be recycled.

Recycling of PVC materials is significant and is increasing; in 2015, over half a million tonnes of PVC was recycled. Therefore, any use of lead in PVC is problematic, since PVC, when recycled, may continue to contribute to overall lead exposure.

Given the non-threshold neurotoxicity of lead, and high toxicity of other additives, such as DEHP, cadmium or titanium dioxide, PVC is de facto hazardous waste and should be treated as such. It is therefore critical to keep PVC out of the supply and recycling chains. As the EU moves towards a circular economy, any lead (or other additives in PVC) introduced has the potential to contaminate the supply chain far into the future.

Recycling is a priority, but recycling of toxic materials will contaminate the entire circular economy into the future. **In the interests of keeping recycling loops clean, contaminated products should be placed in specific hazardous waste landfills (not incinerated) instead of recycled, unless they can be decontaminated ahead of recycling.**

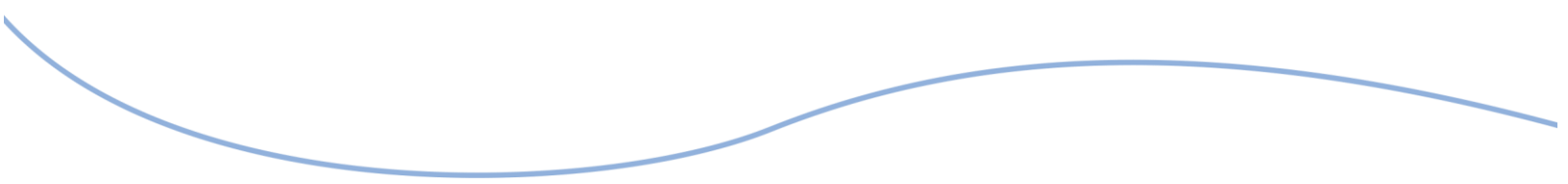
To conclude, the derogations in the current restriction are enabled only by an incomplete assessment of the long-term risks from lead-contaminated recycling loops. **Our current enthusiasm for recycling, though well-meaning, must not put the health of future Europeans at risk. Otherwise, it will not only be a public health issue, but also will have the unintended consequence to undermine the trust in recycling, a trust that is fundamental to ensure the efficient use of resources.**

We therefore ask the Commission and Member States to ensure that PVC is treated in specific installations for hazardous waste instead of conventional landfill or incineration sites.

An additional comment in case the Commission and Member States wish to proceed with the non-properly justified derogation to recycled PVC is that the **proposed labelling is misleading and undermines protection.**

The labelling provisions will allow manufacturers to manage the risks of PVC and recyclers to segregate material streams. However, the current formulation 'contains recovered PVC' can hamper the consumers' protection and their right to make informed decisions.

While labelling is supposed to drive vigilance on the higher concentration of lead in recovered PVC, **such formulation is misleading and praises materials rather than informing about the risks.** Uninformed consumers and professionals are likely to interpret the warning "contains recovered PVC" as a positive feature, whereas it is meant as a warning. Recovered PVC free from lead, if used as a positive attribute, must be distinguishable from PVC containing heavy metals.



The labelling provision needs to be more precise by informing about the recycled PVC concerns by stating for example 'contains recovered PVC with higher concentration of hazardous chemicals than authorized for virgin'; 'WARNING: contains recovered PVC with lead" or adding a warning sign (with "Pb").

These points indicate the **urgency of setting stringent thresholds for lead in PVC regardless it is primary or secondary material and to extend the scope of the restriction proposal**. There is no lower limit for lead – where concentration of lead does not damage the development of children's brains.

Therefore, the undersigned NGOs **call for precaution**. With a completely persistent (i.e., elemental) hazard like lead, **phasing out use as fast as possible is the only good option**, since neither recycling (of a toxic material) or disposal (landfilling or incinerations) are sustainable approaches.

We thank you for consideration of this important matter.

Yours sincerely,



Tatiana Santos
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On behalf of:

European and international organisations:

BFFP - Break Free From Plastic

CIEL - Center for International Environmental Law

ClientEarth

EEB – The European Environmental Bureau

Gallifrey Foundation

HEAL – Health and Environment Alliance

HEJSupport International

HCWH Europe – Health Care Without Harm Europe

Plastic Change

Plastic Soup Foundation

Rethink Plastic Alliance

European National organisations:

Fundación Alborada, Spain

Arnika - Toxics and Waste Programme, Czech Republic

BUND - Friends of the Earth Germany, Germany

Danish Consumer Council, Denmark

Danish Ecological Council, Denmark

ECOCITY, Greece

Ecologistas en acción, Spain

Future in our hands, Norway

GLOBAL 2000, Austria

ZERO – Associação Sistema Terrestre Sustentável, Portugal

In view of the public interest in this matter, we intend to make this letter publicly available.

