

31<sup>st</sup> October 2018

Thérèse Coffey MP  
Department for Environment, Food and Rural Affairs  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

Dear Minister

We write to you as the Alliance of Chemical Associations (ACA), representing companies operating in many sectors of the chemical industry supply chain, from the manufacture of chemicals and specialities, and chemicals distribution to chemicals-using sectors such as plastics, coatings, household products and cosmetics. Between us the ACA member trade associations represent some 1300 UK companies who employ over 150,000 people and contribute over £42bn per annum to the UK economy.

Over the course of recent months the Government has published a series of technical notices offering guidance for business on what will happen in the event of a 'no deal' Brexit outcome. Whilst we continue to urge both parties to secure a future deal that minimises disruption for all European chemical businesses, it is reassuring to see the UK Government addressing the consequences of a 'no deal' Brexit and the actions that our sector might need to consider. In the issue of those notices, industry also welcomed in particular the overall intent to mitigate against the harshest possible outcomes and, should it come to it, we would encourage the EU27 to respond in a similar way.

Nevertheless, the ACA community is deeply concerned over the Department's approach to implementing a UK REACH, which we believe, in its current form, will not only weaken our international competitiveness and stifle innovation but, more importantly, offers nothing more towards delivering a better environment for all.

Our greatest concern relates to the proposals for existing REACH registrations held by UK-based companies. We do have a concern about the first phase of the grandfathering process, the provision of some basic information on existing registrations, the concern not being related to the information to be provided but to the timescale, which we see as being too short, given the number of registrations involved and the fact that in a 'no deal' scenario the priority of companies will be to maintain the day to day operation of their businesses. Our main concern, however, and it is not possible to overstate how serious we consider this to be, is the second phase of the process requirement for companies to submit the 'full' data packages that supported their original EU registrations. UK businesses across the supply chain have invested heavily in gathering information on chemicals, assessing and sharing information and communicating safe use across Europe, including the UK. Having to repeat that exercise, which would involve negotiating access to data and related legal contracts, will be a significant challenge given the very high number of registrations submitted by the UK. More

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importantly, many existing registration holders do not hold, nor do they have access to, the full data package as a requirement proposed by your Department. Instead, companies will have a 'letter of access' that allows them to refer to the underlying data and use of study summaries in submitting their registrations. At best, companies may be able to gain permission to use the study summaries in resubmitting data under UK REACH. This in itself generates a very significant cost (estimated at €70,000 per mid-tier substance) and at worst duplication of testing, possibly including animal testing.

To add to the above challenge, in sitting outside of EU REACH there is no obligation for EU-based companies to share data with UK companies. Therefore, obtaining and sharing data that have been used for the EU REACH registration dossier may not be feasible for UK companies. This challenge has to be taken into account by the Government. Requesting the full data and dossier to be uploaded on the UK system knowing that the EU data may not be shared could mean the duplication of testing, including animal studies, where data already exists or accepting incomplete datasets, severely compromising the validity of the entire data collection exercise and is completely at odds with one of the fundamental principles of REACH.

Whilst not intended to in any way prejudice our above stated position, the proposed two year timeframe to re-negotiate access to data or potentially re-test and re-submit a registration under UK REACH is extremely ambitious, indeed unrealistic, given the significant number of registrations (over 12,000) companies would need to manage. EU REACH permitted three phased, tonnage-based deadlines spanning ten years to overcome the challenge at hand and other global 'REACH' regimes have also provided for a much longer timeframe with a much smaller portfolio of substances expected to be registered. The scale of the task and the related timeframe are simply not feasible.

The UK's proposed approach also needs to give careful consideration to the challenge that existing downstream users of chemicals will face in becoming importers, needing to register under UK REACH. The huge number of SMEs routinely importing substances or mixtures into the UK should also be considered. In addition, further attention needs to be paid to how these 'new registrants' would be put in touch with each other and with 'existing UK registrants' and more importantly how these existing UK registrants would share data that they do not own and do not have the authority to permit others to use or refer to. Downstream users would also need a longer transition period than is proposed to perform their UK notifications as they will need to obtain the REACH registration numbers down their supply chain and agree who in the supply chain will perform the notifications.

Beyond these practical challenges, there are also other grounds for challenging the 'full' data proposal in the UK REACH technical notice, including Government's objective to do all it can to support industry whatever the outcome of the Brexit negotiations. Questions also need to be answered regarding inconsistencies within and between technical notices. The REACH technical notice proposes that all existing REACH authorisations held by UK companies be carried into the UK system to allow continued use of higher risk chemicals; the statement in the technical notice relating to biocidal products proposes that companies 'may' need to submit supporting data or other information to HSE that had previously been submitted to ECHA,; and the statement in the technical notice on pesticides states that to ensure processes run smoothly, there would be an extension of three years to active substance approvals which are due to expire in the three years after the UK leaves the EU. The proposed approach in the latter two is in complete contrast to the 'full' data within two years approach in the REACH technical notice.

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If there is a need to introduce a UK REACH under a no deal outcome, we strongly urge Government to reconsider the requirement to submit full data - a process that is estimated to cost in the order of £1 billion on top of the significant investment already made in gathering information on safe use of chemicals. Most importantly, this cost and resource commitment will do nothing to improve our environment and may well result in a reduction in the number of substances available to the chemical industry, to key customer industries and to consumers in the UK, where companies decide not to support them for commercial reasons, with implications for employment and the UK economy. In addition, whilst it may not be immediately apparent to Government, the loss of substances from the toolkit could have an adverse impact on health and the environment. Given these challenges we strongly urge that DEFRA considers a more efficient and proportionate option that will better reflect the needs and capabilities of both business and the regulator and would welcome the opportunity to make proposals on what it should be.

The ACA does of course remain committed to play whatever role it can in helping to secure a future trading relationship with the EU, but we urge DEFRA to please think again on any potential “no deal” solution for REACH.

Yours sincerely



**Peter Newport**  
**Chairman, and on behalf of the ACA Members**

cc: Richard Harrington, Parliamentary Under Secretary, BEIS  
David Snowball, Acting Chief Executive, HSE

ACA Members



British Association for  
Chemical Specialities  
(BACS)



British Aerosol  
Manufacturers'  
Association (BAMA)



British Adhesives and  
Sealants Association  
(BASA)



British Coatings  
Federation (BCF)



British Plastics  
Federation (BPF)



British Rubber and  
Polyurethane  
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Chemical Business Association (CBA)



Chemical Industries Association (CIA)



Cosmetic Toiletry and Perfumery Association (CTPA)



International Fragrance Association (IFRAUK)



UK Cleaning Products Industry Association (UKCPI)



Tank Storage Association (TSA)

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