

**ClientEarth**<sup>®</sup>



**Dr. Oliver Eberhardt**

Referatsleiter

C II 4 - Chemikalien, Risikobewertung und Risikomanagement  
Bundesministerium für Umwelt, Naturschutz, nukleare Sicherheit und  
Verbraucherschutz  
Robert-Schuman-Platz 3, 53175 Bonn

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## **Restriction of bisphenols under the REACH Regulation: setting the right precedent**

Dear Oliver Eberhardt,

**We are writing to you regarding the upcoming proposal to restrict Bisphenol A and structurally related bisphenols of similar concern for the environment** under the REACH Regulation.

It has been long recognised that **bisphenols pose a grave risk to the environment**, which only a strict ban can effectively and permanently address. **We therefore salute your initiative and look forward to this much needed proposal.**

Recent EU-wide human biomonitoring data also illustrate the existing concerns for human health: study results show that human exposure to the endocrine disruptor Bisphenol A (BPA) is widespread and that exposure to the replacement substances Bisphenol S and Bisphenol F are also increasing in all European regions.<sup>1</sup> Thus, further actions to reduce exposure are long overdue.

As we understand from the calls for evidence and recent public presentations,<sup>2</sup> UBA has already devoted significant resources to preparing a protective restriction. Given the amount and level of evidence required, this process can be extremely demanding and challenging for public authorities. Hence we wish to encourage and support this effort.

Beyond addressing the problem posed by BPA and its bisphenol substitutes for which regulation has been deemed necessary, this restriction has an immense potential. If it were to take a complete and comprehensive group approach, and ideally include all the bisphenols recommended by ECHA,<sup>3</sup> it would **set a crucial precedent in how the EU deals with the most hazardous chemicals**. If designed appropriately, it can speed up and confirm the commitment of the European Commission to phase out all non-essential uses of the most harmful chemicals.

In order to stay true to the above mentioned level of ambition, **this restriction should ban the use of all bisphenols that pose a concern to the environment, with limited derogations**.

We therefore invite you to consider the need to:

→ **Ensure a broad scope** to avoid a substance-by-substance regulation and **include all relevant bisphenols in order to prevent regrettable substitutions**.

→ **Cover the entire life-cycle of products, beyond their service life, in the assessment of the risk as well as the generic costs and benefits of restriction**. Both the manufacture and the waste stage can lead to emissions of bisphenols into the environment.<sup>4</sup> Ignoring those would artificially underestimate the benefits of the action.

→ **Aim for the progressive but full elimination of the use of bisphenols by targeting their presence in products rather than their capacity to migrate**. BPA, and structurally similar Bisphenols, are 'non threshold' chemicals and amongst the most

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<sup>1</sup> [https://chemtrust.org/hbm4eu\\_conference/](https://chemtrust.org/hbm4eu_conference/)

<sup>2</sup> Endocrine Society webinar "Bisphenols - BPA & beyond: Can EU actions reduce our exposure?", 1st June 2022, presentation by Jürgen Arning. [edcs\\_topic\\_eu\\_invitation-final-v3.pdf \(endocrine.org\)](#)

<sup>3</sup> ECHA Assessment of regulatory needs, Bisphenols Group report, December 2021 [1bd5525c-432c-495d-9dab-d7806bf34312 \(europa.eu\)](#)

<sup>4</sup> Substance Evaluation report for BPA (2017): [2e8ac666-fae6-2e54-f0eb-ef4a5da819ed \(europa.eu\)](#). and RMOA Conclusion document (2017): [f39eafc1-f58d-de22-7be3-2cd64eef62a7 \(europa.eu\)](#). See also UBA report on the [Identification of relevant emission pathways to the environment and quantification of environmental exposure for Bisphenol A \(umweltbundesamt.de\)](#) (2014).

harmful chemicals. All non-essential uses should be phased out to minimise the emissions into the environment.

→**Allow for few derogations only, unless justified for essential uses.** Alternatives are already known to exist for many uses.<sup>5</sup> Remaining uncertainties with regard to the availability of alternatives and potential impacts on the industry cannot be used as a justification for large exemptions or for lowering the level of protection as long as the risk persists. REACH places the responsibility on companies - not authorities - to justify the need for derogations.<sup>6</sup> According to the recent commitments of the Chemicals Strategy for Sustainability, that should include evidence that the use for which a derogation is asked for is essential.<sup>7</sup> When companies fail to provide such justifications, it is proportionate for public authorities to restrict the use of their substances. The importance of the objective justifies even substantial economic impacts.<sup>8</sup>

In line with the recent priorities of the European Commission,<sup>9</sup> we, civil society representatives, expect that the protection of the environment will take precedence over economic interests. With that in mind, **we want to assure you that you can count us as reliable partners to support your ambitious initiative at each step of the process.**

We remain at your disposal and look forward to discussing this matter further with you.

Yours faithfully,

**Dr. Christiane Gerstetter**, Acting Head of ClientEarth Germany, ClientEarth

**Natacha Cingotti**, Programme Lead, Health and Chemicals, Health and Environment Alliance (HEAL)

**Tatiana Santos**, Policy Manager for Chemicals, EEB

**Ninja Reineke**, Head of science, CHEM Trust

**Frida Hök**, Deputy Director, ChemSec

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<sup>5</sup> See some of the alternatives listed on: <https://marketplace.chemsec.org/>

<sup>6</sup> Article 1.3 REACH

<sup>7</sup> EU Chemicals Strategy for Sustainability, p. 10.

<sup>8</sup> As the Court affirmed for a non-REACH risk regulation - see Case C-331/88 Fedesa (1990) ECR I-04023 (17).

<sup>9</sup> Materialized in the Commission's Restriction Roadmap:

<https://ec.europa.eu/docsroom/documents/49734/attachments/1/translations/en/renditions/native>

*On behalf of the following NGOs:*

HEAL

ChemSec

The European Environmental Bureau (EEB)

CHEM Trust

ClientEarth

Health Care Without Harm

Women Engage for a Common Future (WECF) Germany

Friends of the Earth Germany (BUND)

Health and Environment Justice Support (HEJSupport)