



31 JULY 2020

Input to the Call for evidence supporting an analysis of restriction options for PFAS

Background

DIGITALEUROPE, the association representing the digital technology industry in Europe, wishes to provide input to the current call for evidence concerning evidence supporting an analysis of restriction options for PFAS.

Regulating PFAS according to their specific properties and uses

DIGITALEUROPE acknowledges the concept of grouping all (shorter chained) PFAS in an effort to prevent regrettable substitution, but believes that this poses the risk of including substances that do not meet the restriction criteria suggested in this call for evidence, i.e. 'very persistent'. To avoid any case of 'regrettable restriction', we suggest that PFAS for which it is proven that they do not meet this criterion as defined by the REACH Regulation should benefit from an exception. Not all PFAS are the same and any new regulatory measure should take into account their different physico-chemical properties, hazard profiles and uses.

DIGITALEUROPE would also like to highlight that up to this specific call for evidence, REACH has regulated persistence in conjunction with other criteria such as bioaccumulation and toxicity, i.e. PBTs and indeed "very persistent" along with "very bio-accumulative", i.e. vPvB. It is agreed that extreme persistence of substances can pose environmental concerns. However, persistence alone is not sufficient to justify regulating substances as a REACH restriction. It would be expected that a relevant hazard and risk would also be associated with the substance in question. In essence, presence alone does not equate to harm, be that harm to humans or the environment.



Establishing a sound definition of ‘essential use’

The call for evidence suggests that PFAS should only be allowed for essential uses and that any non-essential use should be phased out as soon as possible. However, the notion of ‘essential use’ has not yet been defined in the EU legislation, neither for PFAS nor any other substance. The most immediate and requisite step is to build this definition in light of sound science and in consultation with all relevant stakeholders.

Decisions on defining ‘essential use’ must take into account the availability of substitutes and the socio-economic impact of substitution. PFAS are vital to enabling applications and products that are at the heart of our well-being and competitiveness. Without them, the technological society that we know today would not exist. Being too strict in defining the essential uses could result in companies losing the capability to manufacture their products within the EU and consequently moving their production to third-countries and difficulties to import to EU. With no known alternative for critical activities such as semiconductor manufacturing, the technology industry and, even more broadly, the EU’s efforts towards digital sovereignty, are particularly vulnerable to unintended consequences of a restriction.

We suggest that a use should be deemed essential when any of the following conditions is fulfilled:

- ▶▶ elimination or substitution via design changes or materials and components which do not require the use of PFAS is scientifically or technically impracticable,
- ▶▶ the reliability of substitutes is not ensured,
- ▶▶ the total negative environmental, health and consumer safety impacts caused by substitution are likely to outweigh the total environmental, health and consumer safety benefits thereof.



Identifying essential uses within the technological industry

The time frame of the current call for evidence is too short to identify all essential uses of PFAS in the digital industry. As described in our response to the call for evidence, the following have been identified so far within our membership:

- ▶▶ Fluoropolymers (rubbers and other polymers), used for sealing and tubing in conditions where chemical (and temperature) resistance is essential

- ▶▶ Fluoropolymers in applications where low friction is essential in combination with requirements on temperature and moisture resistance
- ▶▶ Coatings
- ▶▶ Lubricants and grease
- ▶▶ Use in the semiconductor manufacturing process, e.g. photolithography, heat transfer applications in critical machinery, etc.
- ▶▶ Battery electrodes and dielectrics in electronic components.
- ▶▶ PTFEs in wiring insulation, Li Ion batteries and gasket where the semi/lubricating properties needed.

Most fluoropolymers are considered polymers of low concern and production processes are generally closed-loop processes under controlled conditions.

This list is subject to evolution as more essential uses are likely to be identified over time.

Finally, we would like to point out that the current call for evidence seem to include F-Gases though they are already regulated in Europe under the F-Gases Regulation. This surely could be considered an unnecessary extension of scope by the very nature of this call for evidence, especially as this Regulation will be reviewed in 2021.



Implementing reasonable limits and a staggered timeline

In the electronics industry many very complex articles are used. It is very likely that these products utilise PFAS in some capacity which contributes to their high performance and acceptance from a societal perspective. The specific chemical composition is usually unknown and the industry's equally complex supply chain may render some companies unsure of the precise presence of PFAS in their products. The ability to measure the quantities of PFAS in such products is not currently possible, should limits similar to PFOA be introduced.

The complexity of the supply chains also requires long transition periods in order to be able to identify and eliminate any replaceable PFAS uses when they are no longer allowed.

When exempting the essential uses of PFAS, there should be no time limitation or *a minima* a possibility for industry to apply for an extension of this exemption since no-one can predict beforehand how long an exemption will be needed. Because of the large scope of this restriction proposal, easy replacement by substances with similar properties is not possible.

FOR MORE INFORMATION, PLEASE CONTACT:



[Redacted]

[Redacted]

[Redacted] [@digitaleurope.org](mailto:[Redacted]@digitaleurope.org)



[Redacted]

[Redacted]

[Redacted] [@digitaleurope.org](mailto:[Redacted]@digitaleurope.org)

About DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE Membership

Corporate Members

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National Trade Associations

Austria: IOÖ

Belarus: INFOPARK

Belgium: AGORIA

Croatia: Croatian
Chamber of Economy

Cyprus: CITEA

Denmark: DI Digital, IT
BRANCHEN, Dansk Erhverv

Estonia: ITL

Finland: TIF

France: AFNUM, Syntec
Numérique, Tech in France

Germany: BITKOM, ZVEI

Greece: SEPE

Hungary: IVSZ

Ireland: Technology Ireland

Italy: Anitec-Assinform

Lithuania: INFOBALT

Luxembourg: APSI

Netherlands: NLdigital, FIAR

Norway: Abelia

Poland: KIGEIT, PIIT, ZIPSEE

Portugal: AGEFE

Romania: ANIS, APDETIC

Slovakia: ITAS

Slovenia: GZS

Spain: AMETIC

Sweden: Teknikföretagen,
IT&Telekomföretagen

Switzerland: SWICO

Turkey: Digital Turkey Platform,
ECID

Ukraine: IT UKRAINE

United Kingdom: techUK