



Environmental Audit Committee

House of Commons, London SW1A 0AA

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Sent by email only

1st December 2023

Thank you for your letter of 2nd August informing me and the Environmental Audit Committee of the consultation on the Government's proposed new approach to the fire safety of domestic upholstered furniture, which was launched over the summer recess and which ran to mid-October. You referenced the interest in the issue taken by the Committee in the 2017 Parliament in its inquiry into *Toxic chemicals in everyday life*, and kindly indicated that you would continue to engage with the Committee as the Government's work on its draft legislation develops.

The Committee has been considering the Government's proposals in the light of the recommendations in its July 2019 report on *Toxic chemicals in everyday life* and the Government's response issued in September 2019.ⁱ Following an initial consideration of these matters by the Committee, I am writing to indicate the Committee's preliminary views on the proposals and to raise a number of issues for your consideration.

The Furniture and Furnishings (Fire) (Safety) Regulations 1988 ("the 1988 Regulations") have not been significantly revised since their introduction. While the 1988 Regulations are described in your foreword to the recent consultation paper as "recognised and recommended internationally as a gold standard for furniture fire safety",ⁱⁱ your Department's predecessor initiated a review of this legislation as far back as 2009, and in 2010 the Government Red Tape Challenge observed that the requirements of the legislation were being met by the use of "significant quantities of potentially harmful Flame Retardant chemicals to make [furniture] covers resistant to the required standard".ⁱⁱⁱ

A 2010 study commissioned by the Department for Environment, Food and Rural Affairs found “significant scope to move towards design-based and inherent flame retardant material approaches which can avoid the use of chemical flame retardant technologies”.^{iv} A report for the European Commission in 2011 indicated that stringent non-flammability requirements in furniture did not necessarily result in a drop in the number of deaths in domestic fires, and a French government study issued in 2015 found it “impossible to determine the possible safety benefit of using flame retardants in upholstered furniture”.^v Your Department’s predecessor issued a consultation paper in 2014 which was based on the premise that the 1988 Regulations were ineffective and, in their operation, were misleading to consumers: it cited, in support of the case for reform, evidence of the harm being caused to human health and to the environment by the use of flame retardants in furnishings.^{vi} A revised consultation was issued in 2016: the Government response to it was issued shortly after the Committee’s report was published in July 2019.^{vii}

In that report the Committee recognised that there was a lack of consensus across industry on reform of the 1988 Regulations and acknowledged the concern of industry to find a solution which provided both safety from fire and safety from toxic chemicals. It nevertheless considered flame retardant chemicals to be largely unnecessary and potentially harmful, and criticised Ministers for delays in developing proposals for reform.^{viii}

The Government’s initiative in finally bringing forward proposals for reform is therefore welcome. Nevertheless, the Government’s current proposals are not consistent with the Committee’s observations and recommendations. I summarise the main discrepancies below: the Committee would be grateful for an explanation as to why the Department has adopted the approach it has, given the strength of the predecessor Committee’s views.

1. The proposed new approach is to be “underpinned by a new set of safety standards developed by [...] the British Standards Institution”.^{ix} In 2019 the Committee expressed concern that the British Standards Institution (BSI) was to be involved in devising a new test for the safety of furniture, given the potential of this to “be used by industry to frustrate change and further delay reform”.^x

Please set out the process which the British Standards Institution will be using to develop voluntary safety standards for upholstered furniture, together with an expected timetable for the development and implementation of new flammability standards for furniture.

2. The Committee recommended that the Government develop a new flammability test standards based on the smoulder test used in the EU and on the test adopted by the State of California in its Technical Bulletin 117-2013.^{xi} Since 2021 the California test has been the basis for the United States federal Safety Standard for upholstered furniture.

Given the widespread concerns raised about the effectiveness of the UK's current flammability tests, please explain why the Government proposes to retain the requirement for products to be assessed against risks posed by flaming and non-flaming ignition sources.

3. The Committee recommended that children's products be removed from the scope of the 1988 Regulations "without further delay".^{xii} The current proposals exclude certain child and baby furniture products from scope, citing research that the risk of harm from fire is lower than the risk of exposure to harmful chemicals, but do not exclude all such products from scope.^{xiii}

Please set out the rationale for only excluding certain child and baby furniture products from scope, and indicate what assessment has been undertaken of the risk of harm to babies and children from retaining the remaining categories of product within scope of the proposed legislation.

4. The Committee recommended that product labels should require an indication of where products have been treated with fire retardant chemicals, and a listing of all the chemicals used.^{xiv} While this recommendation appears to have been adopted by the Department, under its proposal for permanent labelling of new upholstered products, the Committee's recommendation that the label direct consumers to an online information source providing information about relative chemical toxicity has not been adopted.^{xv}

Please indicate what, if any, measures are to be put in place to provide reliable sources of information for consumers to consult about the chemical flame retardants used in upholstered furniture.

5. The Committee recommended the banning of the use of groups of fire retardant chemicals with similar properties in upholstered furniture, to remove the use of 'regrettable substitutions' in domestic furnishings: it also recommended the prohibition of the use, at any threshold, of substances of very high concern in the UK REACH classification.^{xvi} While the Government has indicated that manufacturers are "already increasingly finding innovative ways to meet fire safety requirements" by developing new chemical retardants which "as yet have no known hazards", exploring non-flammable materials and using barrier materials to prevent or delay ignition, the Department does not propose to place specific restrictions on the type or amount of chemicals used beyond existing obligations in UK REACH and other existing chemicals legislation.^{xvii} Instead, manufacturers will be placed under a duty to apply a flame retardant technology hierarchy, requiring them first to consider the use of inherently (rather than chemically-treated) flame retardant materials and adaptation of the product design before using chemical flame retardants. Manufacturers will also be under a duty not to jeopardise the safety or health of users of their products when used in a foreseeable way. The Government suggests that market-based approaches are already driving voluntary accreditation schemes which vouch for the safety credentials of chemicals used in furnishings.^{xviii}

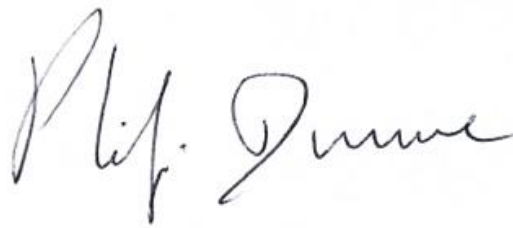
Please set out the evidence which indicates that a technology hierarchy approach is likely to be effective in reducing the use of substances of very high concern (SVHCs) in the treatment of upholstered furniture. Please also indicate how the duty of compliance by manufacturers with the Flame Retardant Technology Hierarchy is to be monitored and enforced, and the authorities responsible for enforcement.

It would be helpful to the Committee to receive a response to the questions above, together with any further observations you wish to make, not later than 10th January 2024.

The Committee has agreed to publish this letter on its website and I expect will wish to publish any response.

A copy of this letter goes to the Chief Executive of the Office for Product Safety and Standards, Graham Russell MBE; the Chair of the Health and Social Care Committee, Steve Brine MP, and the Chair of the Fire Safety and Rescue All-Party Parliamentary Group, Bob Blackman MP.

Yours sincerely,



Rt Hon Philip Dunne MP
Chairman of the Environmental Audit Committee

ⁱ Environmental Audit Committee, [Toxic Chemicals in Everyday Life](#), Twentieth Report of the Committee, Session 2017–19, HC 1805, July 2019, and [Toxic Chemicals in Everyday Life: Government Response to the Committee's Twentieth Report](#), Second Special Report of Session 2019, HC 160, October 2019

ⁱⁱ Department for Business & Trade and Office for Product Safety Standards, [Smarter Regulation: Consultation on the new approach to the fire safety of domestic upholstered furniture](#), August 2023, p. 3

ⁱⁱⁱ [Toxic Chemicals in Everyday Life](#), para. 53

^{iv} *Ibid.*

^v *Ibid.*, para 54

^{vi} *Ibid.*, para 55

^{vii} Department for Business, Energy & Industrial Strategy and Office for Product Safety & Standards, [Updating The Furniture and Furnishings \(Fire\) \(Safety\) Regulations 1988: Government response to consultation](#), July 2019

^{viii} *Ibid.*, para 64

^{ix} [Smarter Regulation](#), p. 3

^x [Toxic Chemicals in Everyday Life](#), para. 65

^{xi} *Ibid.*, para. 65

^{xii} *Ibid.*, para. 66

^{xiii} [Smarter Regulation](#), p. 24

^{xiv} [Toxic Chemicals in Everyday Life](#), para. 66

^{xv} [Smarter Regulation](#), pp. 32–34

^{xvi} [Toxic Chemicals in Everyday Life](#), para. 67

^{xvii} [Smarter Regulation](#), p. 29

^{xviii} *Ibid.*, p. 30