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Agenda Item: 4

The Impact of REACH on Downstream Users in the Consumer Electronics Industry

Purpose: Information
Submitted by: Consumer Electronics Association (CEA)

Sub-Committee on Standards and Conformance Trade Facilitation Task Force Meeting
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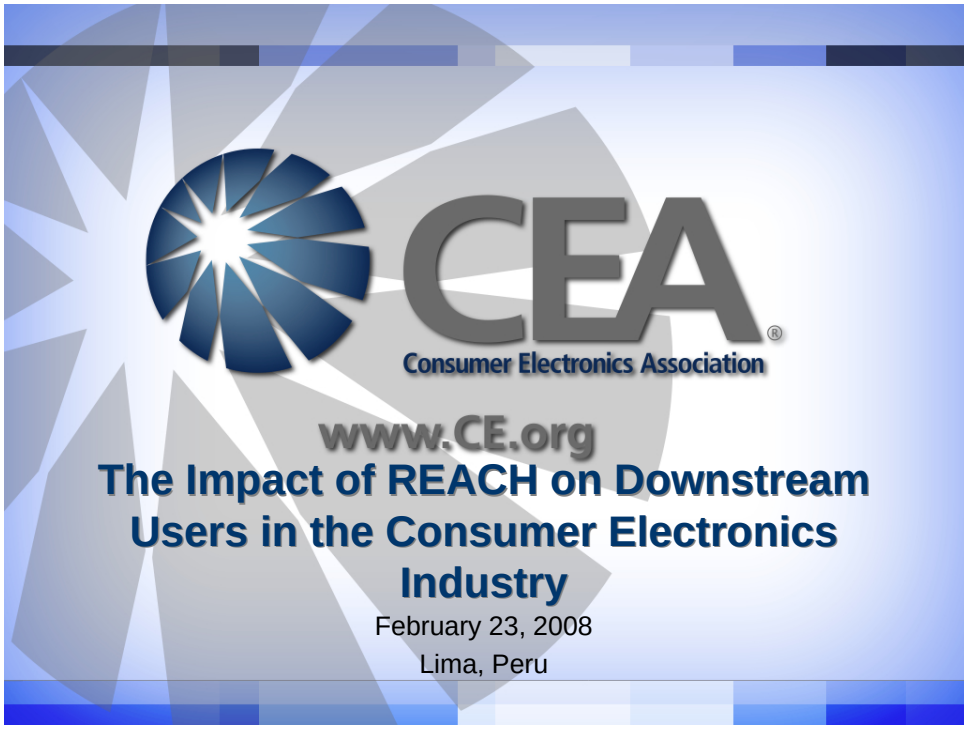

CEA Overview

- More than 2,200 members engaged in the development, manufacturing and distribution of all consumer electronics, communications and multimedia products and services that are sold via global consumer channels
- While CEA is a U.S.-based association, our members are global
  - Global supply chain
  - Global R&D
  - Significant consumer base in Europe and Asia

REACH Myths vs. Realities

MYTHS

- REACH is only a chemical industry issue
- REACH is an EU-based company problem
- Downstream users do not have to prepare

REALITIES

- REACH poses business risk to any company doing business in the EU, not simply to chemical companies
- With a globalized supply chain, there is no such thing as a domestic problem – the ***entire*** supply chain will be affected by REACH
- All companies that make use of chemicals in their components or in the final product must develop strategic action plans in order to manage REACH

CEA Outreach Trip to Brussels November 2007

- DG Enterprise shared that much of REACH legislation is finalized, although there are still some remaining issues regarding IP
- CEA discussed high fees and concern that SMEs would have difficulty managing administrative burden
- In the Fall of 2008 there will be an opportunity for comment on substances considered by the Commission to be of “very high concern”

Status of CE Industry REACH Preparation

- Still trying to understand requirements ahead of pre-registration date
- Focused on cost, administrative burden and necessary supply chain changes
- Much uncertainly remains; more engagement needed
- Many webinars, conferences, presentations, resources

What is a Downstream User?

- Any individual that uses a substance during the industrial phase of production.
- A downstream user may manufacture the preparations themselves or articles that use preparations (which is the case in the consumer electronics industry)
- Also includes re-importers of substances
- Excludes distributors and consumers

General Obligations of Downstream User

- Conduct inventory on all substances, preparations in articles that are manufactured, imported (by U.S. company to EU affiliate) or purchased – *Chemical Safety Assessment (CSA)*
  - ** Each EU affiliate may be a separate legal entity
- Dictate exposure scenario for all uses and must recommend measures to "adequately control the risks"
- Perform "hazard assessment" on all substances (effect on human health and the environment)

General Obligations: Content of Inventory

- Substance identification
- Tonnage
- Whether produced, imported, used, etc.
- REACH exemptions
- Classification
- Suppliers
- Customers/Applications and uses
- Contracts
- SVHCs (Authorization, Restrictions)
- Other important information (data requirements, etc.)

General Obligations of Downstream Users

- Register all substances contained in component or final product (1 ton threshold per manufacturer) with European Chemicals Agency (ECHA)
  - Can divide weights among all importers if manufacturer has multiple importers in EU.

SUPPLY CHAIN

- Ensure input providers are REACH compliant
- Develop maintenance program to ensure adjustments to design and manufacturing process are consistently in compliance starting with pre-registration period
- Closely monitor exemptions process

General Obligations of Downstream Users (cont.)

- If substances included in product are PBT, vPvB or are classified as “dangerous” according to EU law, then company must perform exposure and risk assessments
- Manufacturers/Importers registering the same substance at the same time (within the same tonnage band) must register jointly

How do Downstream Users Make REACH Easier to Manage?

1. Form Consortia in order to reduce registration costs
   - Share test costs
   - Benefit from reduced registration fees
   - Share administrative burden

How do Downstream Users Make REACH Easier to Manage?

2. Appoint an “Only Representative”
   - Must be non-EU
   - Takes on registration and other REACH responsibilities for manufacturers
   - Must have “sufficient background in the practical handling of substances and the information related to them”
   - Must maintain current information on quantities and customers

Only Representative – Other Issues

- When imports are covered by an only representative, importers are considered downstream users:
  - They must assess information received
  - They must assess risk management measures
  - They may need to recommend risk management measures further down the supply chain

Challenge: Defining Substances in Articles

- Substances intended to be released under normal or reasonably foreseeable conditions of use must be **registered** if above 1 tonne per year
- Substances contained in articles above 0.1% w/w must be **notified** if they are included in candidate list and if above 1 tonne per year

Challenge: Defining Substances in Articles (cont.)

- How do you define an “article”
- How do you define “intentional release”
- Information must be provided within 45 days of receipt of request
- Enforcement still a bit of a mystery

More Downstream User Obligations

- Must let supplier know how substance will be used so supplier can include “use” in registration
- Information on use of substance and/or preparation must be maintained through the supply chain
- Identify, apply and, where suitable, recommend appropriate risk reduction measures

Uncertainties

- EU will be adding new substances of high concern to already existing regulations – where does it stop?
  - Process was supposed to begin in January 2008 – has not happened
- Fees
  - Potentially high for SMEs (depending on tonnage)
  - EUR 2500 just to notify Agency of change in legal entity
  - Additional regulatory fees?

Fee Proposal

Response from European Chemicals Agency (ECHA)

- Proposal reflects principles set by Council and Parliament in the REACH Regulation, specifically that the level of fees must take into account the workload involved
- Level of fees and charges foreseen expected to cover about 2/3 of the Agency's costs related to implementation of REACH; remaining costs covered by a Community subsidy
- Very significant reductions (up to 90%) have been foreseen for the smallest companies with a view to facilitate their compliance
- REACH committee gave favorable opinion on the Commission's draft on 10 December 2007. Thus, ECHA expects adoption of Regulation well in advance of 1 June 2008.

More Uncertainties

- Only Representative
  - Liability issue?
- Public access to substance information
  - Competition/IPR Infringement?
- Educating suppliers outside of EU on REACH requirements
- Lack of final REACH guidance by EU

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