How does a chemical that was on its way to be banned in 2008 still exist on the market in Europe today?

Last week it was reported that DEZA, a chemical company linked to Czech PM Andrej Babiš is poised to get approval for continuing to produce a dangerous substance - a plasticizer called DEHP. DEZA's ability to keep producing toxic chemicals showcases glaring faults in EU instruments meant to protect us from harmful chemicals. The decision whether to authorise DEZA's continued use of the chemical will take place next week.
Why We Urgently Need to Demand Better Protection From Harmful Chemicals

• Of the 43 chemicals supposedly banned by the EU, 15 are still in use - including several phthalates and lead compounds.

• Hazardous chemicals in products, such as toys, were found to be the second biggest risk to health and safety on the EU and EEA market in 2016 & 2017 by the European Commission.

• Chemical production is growing even faster than worldwide gross domestic product (GDP) and population and this is set to continue with the global chemical output predicted to further increase by 63% by 2020, according to the EEB. Such a boom requires particular attention from regulating bodies who are already struggling to catch up.

• The 3 main pillars of EU chemicals legislation are The CLP Regulation, the REACH Regulation, and the POPs Regulation, which work together. CLP Regulation classifies chemicals, which REACH and POP’s Regulation manage them.

• REACH is the strongest chemicals regulator in the world. Its aim is to restrict and ban harmful substances in order to stimulate the development of safer alternatives. However, a host of troubling issues means that REACH has allowed thousands of tonnes of supposedly banned chemicals to flow into a wide range of products.

What is it that doesn’t work, and what can we do to fix it?

- Once a chemical has been evaluated and deemed to be a substance of very high concern (SVHC), companies can apply to gain authorisation to use it in special circumstances under REACH. The EU Commission gives the final decision on each application - but sometimes those decisions can take over 3 years - for no apparent reason. A systematic review by ClientEarth this year reveals that Commission decisions are delayed unreasonably in 96% of all authorisation cases and in 89% of all restriction cases.

- Why is this dangerous? Because companies are allowed to continue to use these harmful chemicals until the Commission makes a decision.

- DEZA’s application to extend permission to use DEHP was submitted in 2013 and is set to be decided next week. That’s 5 years that they have been allowed to keep using this harmful chemical. DEZA helped prolonged the delay by suing the European Chemicals Agency (ECHA) over release of information about the chemical’s risk they submitted. This clearly highlights the vulnerabilities of the REACH process.

2. Blanket Approvals in the Authorisation Process

- Even though our understanding of the negative effects of DEHP have increased since 2013, Deza’s application is still likely to be approved. This is not unusual. Incredibly, of all applications considered since 2013, the ECHA recommended to the European Commission to
approve every one of them - even when they are incomplete or don’t meet the requirements.

- In contrast, proposals to restrict the use of SVHCs have been rejected many times. The process has been criticized as being “disproportionately burdensome”, which results in a slow process and very few chemicals being added.

3. Favouring Business Over Health

- The only time companies are banned from using a substance of very high concern during the authorisation process is when they hand-in a late application. Strangely, the EU Commission seems to show favour to these late applications - sometimes taking only 5 months to make a decision. This shows a clear favour towards business interests.

- NGO’s have also accused the ECHA of following the lead of the EU Commission in its aim to make applications to use banned substances cheaper and easier. Strong lobbying by the chemicals industry - and the plastic industry - is thought to play a crucial role.

4. Not Supporting The Shift To Alternative, Safer Chemicals.

- Applications to use SVHCs are often granted even when safer alternatives exist and are being used. This completely undermines alternative providers and violates REACH’s objective to substitute harmful chemicals with safe alternatives.

- This commonly happens because applicants for authorisation don’t always provide accurate information on alternatives. But ECHA could also improve its assessment of alternatives too. The agency been
under fire in the past for not doing homework on potential alternatives, and not encouraging alternative providers from contributing.

Note: In a wider context when discussing substitution strategies, it’s important to consider more than just the substitution of one chemical for another. We should also be looking at substitutions of products and services as well.

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<th>Crucial Steps for ECHA &amp; EU Commission to ensure REACH is ready to protect us.</th>
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<tr>
<td>• Until a final decision is made during the authorisation process, companies should not be allowed to use any chemical that has been identified as a substance of very high concern. This would protect EU citizens from the negative effects of any delays.</td>
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<tr>
<td>• The authorisation and restriction process needs to be sped up, it should not take up to three years for the EU Commission to make its decision. We must also demand more transparency on why delays happen, and the reasoning behind some applications are prioritised over others.</td>
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<td>• The burden of proof must fall on companies submitting applications to use SVHCs. ECHA should reject any application that is incomplete or does not provide sufficient information - as recommended during the European Commission’s consultation on the REACH Review, 2017.</td>
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<td>• Blanket approval of authorisation applications discourages the use of safer substitutes - one of REACH’s core objectives - and</td>
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completely undermines the process. Authorisations should be exception, not the rule.

- ECHA should also actively reach out to alternative providers and support them to be able to contribute meaningfully to the process. NGOs Chemsec and ClientEarth have recommended 16 urgent changes in a report published earlier this year.

- To ensure proper precautions are taken, the restriction process needs to be streamlined. All substances of very high concern should be fast-tracked.

- ECHA should ensure a better balance between costs for the applicant vs. external costs associated with the use of SVHCs. This will help to ensure that REACH does not side too strongly with applicants and underestimate the costs to society.

- Finally, pushing for increased transparency and full speaking rights for all stakeholders would ensure all relevant voices are heard during the authorisation process - not just the chemical and plastic lobbies.

Tweet Ideas:

Harmful chemicals are part of the plastic story. Both industries are growing and cause health & environmental damage. We need safe and sustainable alternatives.

A harmful chemical slated to be banned years ago is still being produced in Europe. EU regulations are not working to protect health and environment from dangerous plastic chemicals. We need to fix this!
Next week will decide whether a dirty chemical producer will be allowed to keep producing a dangerous chemical used in PVC plastic. The EU will likely say yes. We need alternatives to virgin plastic & toxic chemicals.

Sources:

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More sources available on request.

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