

Comments on European Commission Roadmap for the Fitness Check on Endocrine Disrupting Chemicals (EDCs)

9th July 2019

Thank you for giving the opportunity to comment on the Roadmap. HEJSupport is a NGO working in EDCs on national German, EU and international level for several years, and a member of the EDC-free Europe Coalition.

General comments

The Fitness Check on EDCs presents another delay in the process to provide protection from EDCs for environment and health, especially for vulnerable groups. The current Commission has failed to deliver protective measures as described in the 7th EU Environment Action Programme (7th EAP) from 2013, which already aims to ensure minimization of exposure to EDCs. Several Commission reports have already pointed out the gaps in various pieces of EU legislation regarding these harmful hormone disruptors¹.

As emphasized by the European Parliament Resolution on EDCs, adopted on 18 April 2019², and by the 26 June 2019 Environment Council conclusions "Towards a sustainable chemicals policy for the Union"³, it is now urgent for the European Commission to uphold its commitments as per the 7th EAP and effectively reduce people's exposure to EDCs in a comprehensive way throughout Europe.

The 2018 European Commission Communication "Towards a comprehensive European Union framework on endocrine disruptors"⁴ should in no way be considered as an update of the 1999 Community Strategy for EDCs. This eleven-page document fails to provide any proposal for specific measures, a timeline, targets, an action plan, or a budget.

To achieve a real added value, the Fitness Check should focus on assessing how to strengthen protection against EDCs through improved and new EU regulations. In this way, the EU can deliver on its objectives to protect human health and the environment from endocrine disruptors, and in particular vulnerable groups.

This approach should include international dimension of the Fitness Check exercise. Effective control of EDCs to ensure a high level of health and environment protection is not only essential for the purpose of imported products in the EU, but also in respect to the positions the EU is taking in multilateral initiatives for safer chemicals⁵.

¹ E.g. EEA Report: The impacts of endocrine disruptors on wildlife, people and their environments, 2012 <https://www.eea.europa.eu/publications/the-impacts-of-endocrine-disruptors>; State of the art report on mixture toxicity, 2009 http://ec.europa.eu/environment/chemicals/effects/pdf/report_mixture_toxicity.pdf

² http://www.europarl.europa.eu/doceo/document/TA-8-2019-0441_EN.html

³ <https://www.consilium.europa.eu/en/press/press-releases/2019/06/26/council-conclusions-on-chemicals/>

⁴ <http://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-734-F1-EN-MAIN-PART-1.PDF>

⁵ See wide ranging exemptions to global ban of PFOA obtained by China, the EU, and Iran - May 2019 <https://chemicalwatch.com/77163/geneva-meeting-agrees-global-ban-on-pfoa-with-exemptions>, and EU exemption on recycling of several flame retardants under the Stockholm Convention on https://ipen.org/sites/default/files/documents/ngo_letter_eu_pbde_recycling_exemption_23042019.pdf

Finally, the Fitness Check must also ensure that future provisions on EDCs will be fit for purpose to guarantee a clean circular economy and a non-toxic environment.

Specific comments

The approach of hazard identification is key for regulations on endocrine disrupting chemicals and will lead to better control of these substances.

The Fitness Check on endocrine disruptors should thoroughly take into consideration the analysis and conclusions from the report commissioned by the European Parliament: “Endocrine Disruptors from Scientific Evidence to Human Health Protection” March 2019⁶.

On the horizontal approach and criteria for the identification of endocrine disruptors:

The 7th EAP requires in particular the EU to “develop harmonised hazard-based criteria for the identification of endocrine disruptors.” These criteria must be based on the definition from the World Health Organization (WHO). In addition, full consideration of the differences in data availability is essential in order to ensure that substances are not being considered as safe just because not enough data are available to classify them as EDCs. It is also essential to ensure a higher level of transparency to indicate which substance has been assessed or in the process of being so.

The inadequacy of the criteria adopted for the identification of EDCs under the Plant Protection Products regulation and the Biocidal Products regulation must be addressed.⁷ EDC-Free Europe has repeatedly warned that these criteria are not sufficient to protect human health and the environment.⁸

On regulatory consequences for endocrine disruptors:

The different regulatory approaches for ED substances depending on the different pieces of legislation should not necessarily be taken as a problem or an indication of incoherence, as the text of the Roadmap seems to suggest. The deliberate choice of the EU to have different types of risk management for chemical substances and products reflects the fact that some substances are intended to kill living organisms while others are not, and some are mostly intended for consumer use. Furthermore, this also reflects diverse intended uses and levels of exposure requiring different risk management measures: pesticides are applied in open fields and end up as residues in food, while chemicals used in consumer products such as toys and food packaging may come in contact directly with people, including vulnerable groups.

⁶ [http://www.europarl.europa.eu/RegData/etudes/STUD/2019/608866/IPOL_STU\(2019\)608866_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2019/608866/IPOL_STU(2019)608866_EN.pdf)

⁷ <https://www.edc-free-europe.org/articles/press-releases/reaction-revised-edc-proposal>

⁸ <https://www.pan-europe.info/press-releases/2017/12/unsettling-compromise-member-states-support-commission%E2%80%99s-unfit-proposal>

Data collection and methodology:

The Roadmap points at the readily available results of the many REFIT and fitness checks on EU chemicals legislation undertaken over the last three to five years. It also indicates that particular attention will be given to legislation that does not contain specific provisions for endocrine disruptors, such as the legislation on toys, cosmetics and food contact materials. The Fitness Check of the most relevant chemicals legislation (excluding REACH) points directly at these situations: “there are still many pieces of legislation dealing with protection of human health and the environment from exposure to chemicals that do not contain specific risk management provisions as regards EDs [...]”⁹.

- The EDC-Free Europe coalition wishes to stress that robust, legal provisions on chemicals are absent for most consumer products, such as childcare articles, textiles, or furniture. An extensive study for the European Commission thus found that “legislation preventing the presence of toxic substances in products (where possible) is scattered, neither systematic nor consistent and applies only to very few substances, articles and uses, often with many exemptions”.¹⁰ EDC-Free Europe insist that the EDC Fitness Check investigates how a coherent legal framework to protect human health against endocrine disruptors in all consumer goods can be achieved; in particular, this framework must enhance consumer protection against endocrine disruptors in products not covered yet by harmonized EU legislation, such as childcare products, clothing, and personal hygiene products.
- In addition, the recently concluded Fitness Check of the EU’s chemicals legislation (except REACH) found that existing EU legislation regulating consumer products largely fails to set sufficiently ambitious thresholds for harmful chemicals to ensure adequate protection of vulnerable groups, such as pregnant and breastfeeding women, children and persons with compromised immune responses.
- The situation of vulnerable groups at workplaces, young workers and pregnant women should also receive particular attention.
- In 2017, the European Commission already promised to regulate EDCs in toys, cosmetics, and food contact materials. Many stakeholders sent input at the time which should be fully taken into consideration again with indication to stakeholders that this is being done.
- The Fitness Check on endocrine disruptors should also thoroughly take into consideration the analysis and conclusions from the report commissioned by the European Parliament: “Endocrine Disruptors from Scientific Evidence to Human Health Protection” March 2019¹¹.
- The Roadmap refers to the Impact Assessment on the criteria to identify endocrine disruptors in the areas of pesticides and biocides. It should be reminded that the European Court of Justice

⁹ Findings of the Fitness Check of the most relevant chemicals legislation (excluding REACH) and identified challenges, gaps and weaknesses; see specifically Annex 7 of Staff Working Document (Part 3).

¹⁰ Study for the strategy for a non-toxic environment of the 7th Environment Action Programme, 2017.

<https://publications.europa.eu/en/publication-detail/-/publication/89fbbb74-969c-11e7-b92d-01aa75ed71a1/language-en>

¹¹ [http://www.europarl.europa.eu/RegData/etudes/STUD/2019/608866/IPOL_STU\(2019\)608866_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2019/608866/IPOL_STU(2019)608866_EN.pdf)

(judgment¹² T-521/14 para 74) made clear that the Impact Assessment did not justify the delay in adopting the criteria under the Biocidal Products Regulation. The same applies to the Plant Protection Products Regulation. Other inquiries raised serious questions about the conclusions of this impact assessment¹³.

- Particular attention should be given to shortcomings of the recent review of the Cosmetics Regulation with regard to endocrine disruptors¹⁴. In particular, the review neglects the concerns expressed by the Scientific Committee on Consumer Safety (SCCS) regarding the availability of data necessary to identify and assess possible endocrine disrupting effects. Despite the Commission's correct observation in the EDC Communication that "endocrine disruptors can work together to produce additive effects ("mixture effect", or "cocktail effect") so that exposure to a combination of endocrine disruptors may produce an adverse effect at concentrations at which individually no effect has been observed", the review of the Cosmetics Regulation does not consider this concern at all. It is imperative that the EDC Fitness Check compensates for these shortcomings when assessing whether the Cosmetics Regulation is fit to protect consumers against endocrine disruptors.

Health and Environment Justice Support is part of the EDC-Free Europe coalition, bringing together public interest groups representing 70 environmental, health, women's and consumer groups across Europe who share a concern about hormone-disrupting chemicals (EDCs) and their impact on our health and wildlife. Our comments are complementary to [those submitted by the EDC-Free Europe campaign](#).

Contact

Health and Environment Justice Support
Dr Olga Speranskaya
Alexandra Caterbow

www.hej-support.org
info@hej-support.org

¹² <http://curia.europa.eu/juris/liste.jsf?num=T-521/14>

¹³ <https://www.pan-europe.info/press-releases/2019/05/top-eu-officials-fought-higher-pesticide-exposure-secret-documents-show>

¹⁴ <https://chemicalwatch.com/74724/guest-column-time-to-revisit-the-eu-cosmetics-regulations-edcs-approach>