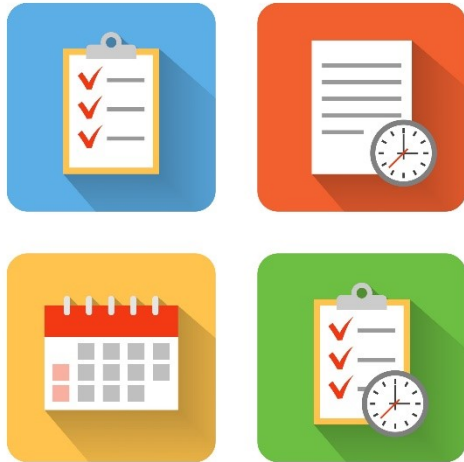


ERFMI TC Meeting

25.03.2021

Agenda



- Welcome and Opening
- Competition Law
- Approval of the minutes of the meeting of 28th January 2021
- Matters Arising
 - AVCP reaction to fire and continuous glowing combustion:
 - Commission proposal
 - Our proposal
 - Next steps
- Update on issues:
 - CPR revision
 - Brexit
 - Article 13 of French Circular economy Law
 - Sustainable Products initiative
 - Waste definition
- Discussion regarding key issues/topics for 2021
- Date of next meeting and close

Do's and don'ts for a Competition Safe Environment - 2

Don'ts

Do not, in fact or appearance, discuss or exchange information not in conformity with competition law, including for example on:

Prices, including:

- ☒ Individual company/industry prices, price changes, price differentials, discounts, allowances, credit terms, etc.;
- ☒ Individual company data on costs, production, capacity (other than nameplates capacities), inventories, sales, etc.

Production, including:

- ☒ Plan of individual companies concerning the design, production, distribution or marketing of particular products, including proposed territories or customers;
- ☒ Changes in industry production, capacity (other than nameplates capacities) or inventories etc.

Transportation rates:

- ☒ Rates or rate policies for individual shipments, including basing point systems, zone prices, freight, etc.

Market procedures, including:

- ☒ Company bids on contracts for particular products; company procedures for responding to bid invitations;
- ☒ Matters relating to actual or potential individual suppliers or customers that might have the effect of excluding them from any market or influencing the business conduct of firms toward them, etc.;
- ☒ Blacklist or boycott customers or suppliers

Do's and don'ts for a Competition Safe Environment - 1

Do's

Ensure strict performance in the areas of:

Oversight/supervision

- ☑ Have a Secretariat representative at each meeting;
- ☑ Consult with appropriate counsel on all questions related to competition law;
- ☑ Limit meeting discussions to agenda topics;
- ☑ Provide each attendee with a copy of a checklist and have a copy available for reference at all meetings.

Recordkeeping

- ☑ Have an agenda and minutes which accurately reflect the matters that occur;
- ☑ Ensure the review of agendas, minutes and other important documents by appropriate staff or counsel, in advance of distribution;
- ☑ Fully describe the purposes, structures and authorities of the groups.

Vigilance

- ☑ Protest any discussion or meeting activities which appear to violate this checklist;
- ☑ Ask for those activities to be stopped so that appropriate legal check can be made by counsel;
- ☑ Disassociate yourself from any such discussion or activities and for the attendees, leave any meeting in which they continue (and have it minuted).

CPR

- No feedback from EC on consultation about the future of the CPR last year
- Validation workshop for the consultation results took place on the 24th of March – initial feedback most respondents were in favour of option A with minimal changes
- .Timeline:
- Impact assessment of CPR finalised April/ May
- Legislative proposal end of the year – 4th Quarter (likely official draft in Parliament end of November)
- Technical discussion 1st half 2022 – under French presidency
- Then the whole revision takes between 2 and 5 years

CPR Acquis

- The EC organised some meetings on the development of the CPR Acquis - limited to some Member States' experts
- Construction Products Europe sent a letter to the EC together with FIEC, EBC and SBS requesting deeper involvement in the development of the CPR Acquis
- No response yet

Delegated act AVCP reaction to fire and continuous glowing combustion

- At the recent Advisory Group for the Standing Committee for Construction, the EC made available two new versions of draft Delegated acts related to fire issues:

1) Delegated act on the classification of resistance to fire performance of construction products

The document was developed by EC in collaboration with CEN/TC 127 WG7 convenor. Member States representatives are expected to assess the draft and check consistency with the national regulations before official adoption because at a later stage (scrutiny in the Council and European Parliament) changes will not be possible.

2) Delegated act, AVCP reaction to fire and continuous glowing combustion / smouldering behaviour

EC will accept comments to the following delegated acts until the **31 March 2021**.

Delegated act, AVCP reaction to fire and continuous glowing combustion / smouldering behaviour

| Product | Product subfamilies | AVCP system |
|-----------------------|--|-------------|
| Construction products | Products for which a clearly identifiable stage in the production process results in an improvement of their reaction to fire performance (e.g. an addition of fire retardants or a limiting of organic material), and/or in an improvement of their continuous glowing combustion performance | 1 |
| | Products for which an applicable European legal base exists to classify their reaction to fire performance and/or their continuous glowing combustion performance without testing | 4 |
| | Products not belonging to the subfamilies indicated in rows 1 and 2 | 3 |

Initial reactions

- France suggested a change in the delegated act assigning the AVCP systems depending on the classification. Higher classes should be linked to more restrictive AVCP systems. EC clarified that the approach suggested is not possible because the legal text (article 28 of the CPR) does not allow the classification according to the result or the expected result of the assessment.
- Criteria chosen is difficult to interpret because it is not clear when flame retardants and organic content control is done to improve the fire performance and when it is done for other purposes .
- Alternative sentence proposal
- Products for which a clearly identifiable stage in the production process results in an improvement of their reaction to fire performance (e.g. an addition of fire retardants or a limiting of organic material **to intentionally improve fire performance**), and/or in an improvement of their continuous glowing combustion performance
- However change of sentence is not sufficient.

Two possible pathways

- A) To report that we add fillers which limit organic content, but not for the purpose of limiting reaction to fire.
- This will then be added as an explanatory memorandum, which means if there are any queries notified bodies can see in the memorandum that the product falls under System 3 document will not be officially published together with the Delegated Act, but will be provided to the Group of Notified Bodies.
- B) Draft a Technical Dossier
 - . Some sectors already requested a delegated act for the declaration without testing for a product family to benefit from using AVCP system 4.- e.g EPS

Work coordinated by CPE and EUPC

- Tapani Mikkeli (DG GROW – Head of sustainable construction) is willing to draft an Explanatory Memorandum to the Delegated Act on reaction to fire.
- This memorandum could be referred to by notified bodies
- To prepare for this memorandum, we need to list all our products which should be derogated from the "move" from AVCP 3 to AVCP 1.
- List to be submitted by 31 March.
- After that, we will have the opportunity to have more detailed discussions with DG GROW on how to proceed with the Explanatory Memorandum.
- Each sector to list product families/product groups which would be impacted by the change of the AVCP system

Product split into 2 scenarios

1. Products today with class D, E or F falling within system AVCP 3 **without a flame retardant**. In the manufacturing of these products with low class for reaction to fire, you use fillers, lubricants, or compounding processes which effectively improves the reaction to fire performance, but **not intentionally**. In other words, those steps might be considered as *"clearly identifiable stage in the production which results in an improvement of their reaction to fire performance"* but in fact they do so unintentionally.
2. Products today with class D, E or F falling within system AVCP 3 **with a flame retardant**

Next steps

- Need to produce a list of affected product categories as requested



WASTE

Waste Definition

- Very important to define pre and post consumer waste in the context of the Circular plastics alliance, Green Public Procurement guidelines and the future prospect of mandatory recycled content
- Our definition provided to the CPA and VinylPlus needs to be clarified (flow chart and discussion with plastics recyclers Europe)

Flooring Definition of Recycling (ERFMI)

Pre – consumer waste excluded

Processing waste that is re-used immediately or continuously in the SAME sub-process* that generated the waste

Pre – consumer waste included



Processing waste that has been substantively adapted/reformulated prior to reprocessing**



Processing waste re-used in other internal processes or sold to other flooring manufacturers or other converters.

Post-Consumer Waste



Post-consumer waste from used flooring after renovation, demolition



Internal re-use of off cuts collected from the site of flooring installation



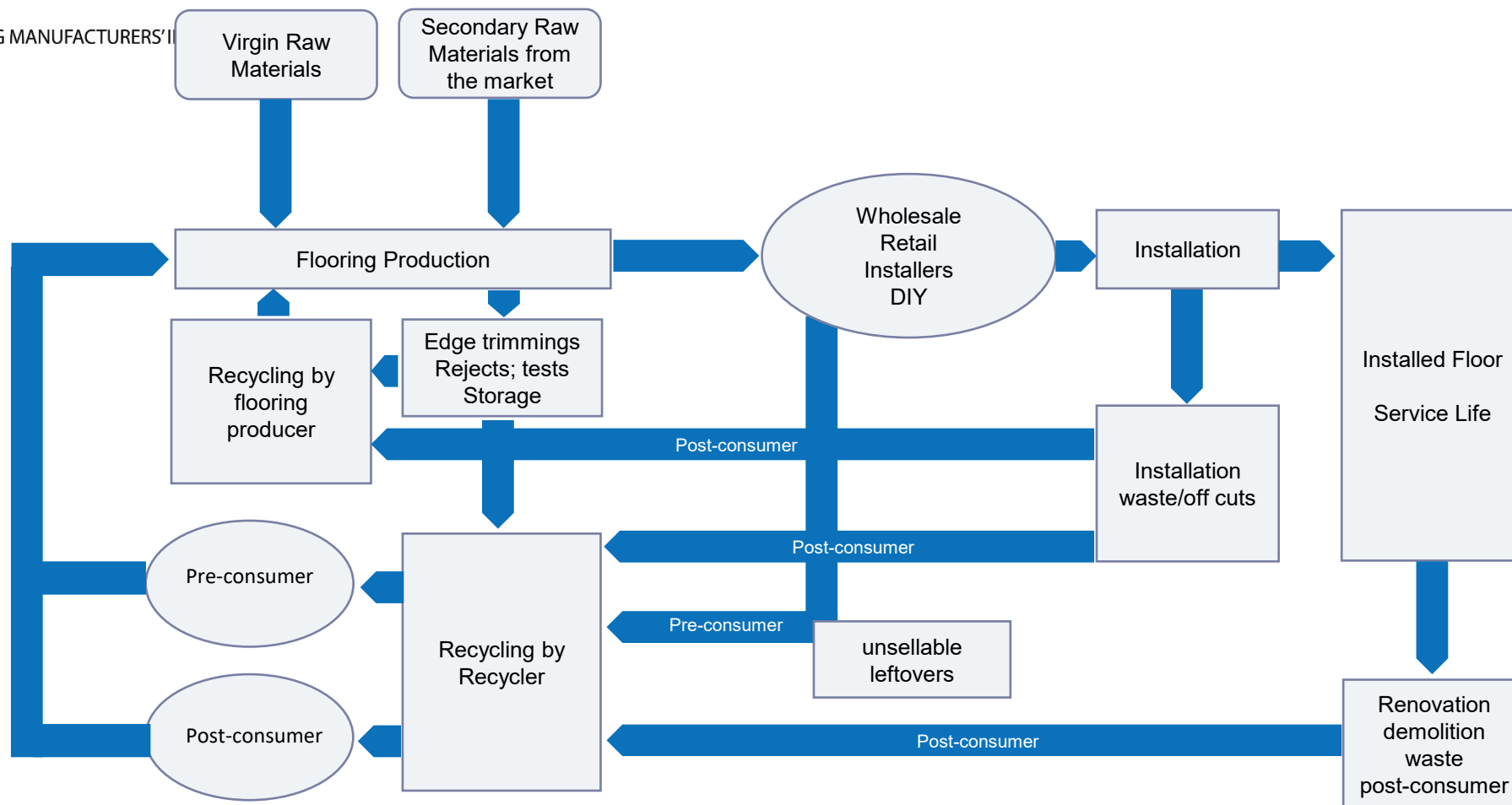
Waste generated from the above streams which is then provided to a recycler

*sub-process is a constituent process within the overall production process

**e.g.Waste which is re-mixed with other compatible waste or virgin materials before being reintroduced into the same or separate sub-process. Waste which has to be disassembled by separating layers, before being reintroduced into any part of the process.

Definition of Recycling

- Recyclate used in resilient flooring is a mix of reprocessed pre – consumer and post-consumer waste.
- To incorporate pre-consumer waste in their production, flooring manufacturers have invested in product eco-design and internal logistics to ensure each production batch is reformulated to cope with the variability of the recyclate available and the product technical specification target.
- Recycling of pre consumer waste requires high level investments in the technical capacity - e.g specific recycling lines and intermediate storage areas for semi-finished components.
- Important in terms of productivity and industrial performance, as in most cases a recycling facility may source pre-consumer from external suppliers, other facilities from the same producer or from several internal production lines.
- The recycling can be undertaken within the same legal entity or via external companies



Sustainable Products Initiative

- Sustainable Products legislative Initiative (SPI) responds to the objectives of the EU Green Deal and the new Circular Economy Action Plan (CEAP) It will
- Aim to make products fit for a climate neutral, resource efficient and circular economy, reduce waste and ensure that the performance of frontrunners in sustainability progressively becomes the norm.
- Basically widening the scope of the Ecodesign Directive [4] beyond energy-related products so as to make it applicable to the broadest possible range of products

Products identified

- Priority products under the Sustainable Product Policy legislative initiative identified in the CEAP are electronics, ICT, textiles, furniture and high-impact intermediary products such as steel, cement and chemicals. (The initiative will not cover food and feed products.)
- Further product groups are to be identified based on their environmental impact and circularity potential.
- Decision:
 - Should we respond?
 - If so respond as ERFMI or with EUPC or both?

Brexit

- Putting together document to cover all aspects with EUFCA
- Still uncertainty over need of retesting and mutual recognition

UK Bodies and Standards

UK Notified Bodies will become UK Approved Bodies

- Same scope
- Same number: probably AB0338 or UK0338
- Same accreditation (UKAS)
- Approved to carry out same procedures / approvals under UK Legislation

EU Harmonised Standards will become 'Designated' Standards

- Initially, same list as EU
- Divergence will depend on sector / consultation

Article 13 of French Circular Economy Law

As of January 2022 Manufacturers must:

- Inform the consumer about **the qualities and environmental characteristics of products** that generate waste (Article 13)
- Inform the consumer of **the presence of** known or presumed **endocrine disruptors (as listed by ANSEN)** (Article 13)
- ERFMI action taken:

Key arguments

Will lead to distortion of the internal market as it creates a parallel classification of substances which may result in the imposition of **barriers to trade**.

- Scope of the Decree **should be clarified**
- Ask for harmonisation of the obligations in France with the decisions that are soon to be taken in the context of the Green Deal and the implementation of the Chemicals Strategy for Sustainability
- Regarding the creation of a data base on Endocrine Disruptors (EDs), we requested:
 - An evaluation of the criteria used by ANSES for the identification of EDs in 3 categories as foreseen by the law (known/presumed/suspected). A harmonisation with the criteria defined at EU level is essential ;
 - a) A definition of the methodology defining criteria and more transparency on the process followed for listing substances ;
 - b) A threshold for application of information requirements
 - c) A consultation of stakeholders before the lists of EDs is finalized by ANSES followed by a TRIS notification before publication ;
 - d) The notice of the Decree states that these information requirements apply to consumer products only but the legal provisions of this text don't specify this scope.

Action taken

- Sent response to commission via the EU page on which the French law has been notified
- French government will have to respond to the queries which have arisen particularly from other memberstates

Key topics for 2021

Brexit

REACH

TiO₂

Microplastics

CPR revision

AVCP

Date of next meeting

Agreed to send doodle poll for a meeting in June.