

Unite response to DEFRA consultation on UK Reach

This submission is made by Unite, Britain and Ireland's largest union with over 1 million members across all sectors of the economy including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, health, local government, and the not-for-profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.

We will provide a concise response concerned with the main themes in the call for evidence that are of concern to our membership.

Would you like your response to be confidential? (required)

No.

What is your name?

Tony Devlin, National Officer, Unite the Union

What is your email address?

Are you responding as an individual or on behalf of an organisation?

An organisation.

What type of organisation are you responding on behalf of?

Trade Union

If you are responding on behalf of an organisation, what is the name of the organisation?

Unite the Union

Unite's General Position

Unite is clear that key government regulators including the Health and Safety Executive (HSE) do not have the necessary staff and skills to protect workers and the public from chemical and other risks. HSE has been tasked with operating an independent post-Brexit regulatory chemical safety regime, replacing a sophisticated EU system for setting exposure standards, regulations and regulatory systems. The House of Commons Public Accounts Committee has

said that regulators are “struggling to recruit and retain the skills they need to regulate effectively” amid growing demand following Britain’s exit from the EU.¹

The report notes: “HSE no longer has access to the chemical safety data underpinning the EU’s Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regulations. Industry has estimated it will cost £800 million to replicate this data in the UK REACH system.

The regulators are taking action to mitigate these issues, but in some instances the alternatives are more time consuming and are likely to increase costs over time.

Changes to reporting systems and requirements around data will not provide a silver bullet to improve the UK regulatory framework. This will only be possible with increased investment and financial resources available to bodies such as HSE in order to protect workers and members of the public from harmful chemicals.

What changes to UK REACH are needed?

Eight NGOs have identified changes UK REACH needs to make to achieve high levels of health and environment protection.² UK REACH must ensure the UK tackles the current chemicals pollution crisis and protects consumers, workers and the environment from harmful chemicals in the UK and beyond. To be world leading UK REACH must be ambitious and use the best available science and data from around the world while taking a dynamic and precautionary approach to the assessing, managing and restricting of chemicals of concern.

Unite’s priorities for UK Reach

¹ <https://committees.parliament.uk/committee/127/public-accounts-committee/news/173453/delays-to-postbrexit-regulation-posing-risks-to-uk-consumers-and-businesses/>

² <https://www.env-health.org/wp-content/uploads/2022/04/NGO-key-demands-to-improve-REACH-April-2022-2.pdf>

- The necessary reform of UK REACH to safeguard the protection of workers from hazardous chemicals.
- A safer, faster and more cost-effective model. This would default to adopting EU risk management decisions but retain the sovereign ability to diverge after a request, subject to demonstrable reasons why the UK context is different, that was open to challenge. This system would mean registrations could be relatively simple (the Swiss model).
- Addressing the difficulties outlined in point 2 above on data, it would provide certainty and predictability to and be low cost on industry.
- Polling shows strong public support for high regulatory standards on chemical safety. There could be potential public outcry if the UK starts becoming a dumping ground for substances or products that do not comply with higher EU standards.
- Cost-effective - allowing the UK to focus its limited capacity to go further and faster than the EU or on areas where the UK context is demonstrably different.
- Mechanisms to ensure open and transparent decision-making.

Key asks for the UK Chemicals Strategy

In 2022 we reported that 30 health and environmental NGOs identified key reforms that should be adopted by the UK if the government is to deliver on its commitment to be a “world leader on environmental protection”. These included:

- Phase out the most hazardous chemicals from consumer products for all nonessential uses;
- A plan to address endocrine disrupting chemicals including timelines to phase them out;
- Phase out the use of PFAS and other very persistent chemicals;
- Speed up regulation of harmful chemicals and avoid regrettable substitution by adopting a grouping approach;
- Address the combined exposure to chemicals – the ‘cocktail effect’;
- Maintain and expand on workers’ health and safety;
- Ensure a clean circular economy with products that are safe by design;

- Develop an effective monitoring and alert system;
- Stop the continued accumulation of legacy chemicals in the environment;
- Remain aligned with the world-leading chemical regulation EU REACH;
- Ensure more transparency and use of all relevant science for assessing health risks.

It is the view of Unite that these key priorities remain and that any changes to the UK REACH system must respond to the challenges identified with suitable financial resources and investment in our regulatory bodies, including increasing the level of workforce, to ensure the system remains robust and the UK cannot become a dumping ground for harmful chemicals detrimental to the health of workers across the UK economy

Some specific proposals contained in the consultation

In terms of the **removal of the more detailed elements of the hazard information requirements from UK REACH registrations**, Unite does not agree with this. The approach to improve ‘efficiencies’ from GB regulators is a direct constraint/requirement as a result of under resourcing (particularly that of the HSE) to be ineffective and not ‘fit for purpose’ in today’s working world context.

The highlighted attempt to further deregulate adds additional weight for GB regulators to be properly funded, to pre 2010 budget levels (inflation adjusted, to reflect 2024’s costings, etc).

Unite has **concerns around the position set out in the consultation that UK registrants of transitional substances do not need to provide detailed hazard information** (including study summaries and robust study summaries) to fulfil their duties regarding safe use or support of UK REACH prioritisation of regulatory work. Unite refutes this statement from the regulators. The framework suggested is watered-downed regulation at best and is effectively relying on organisations to read future guidance and follow ‘good practice’. Where enforcement for breaches would still be possible, this further places regulators into a position of reaction.

Maintaining robust reporting and effective testing against control measures, for example, COMAH and operator's controls is another example of further funding required for to enable proper regulation.

Unite is concerned about the proposal to align two reports into one, yearly planning and coming years outlook, removing the 5-yearly report from HSE on REACH operation.

Unite believes that a combined report would be best placed annually. It would be beneficial for government to work with organisations and to demonstrate sanctions should organisations fail to register with UK REACH.

The narrative surrounding:

'This cost arises from the need for companies operating in Great Britain to engage in negotiations with EU industry consortia to gain access or buy data previously provided to the European Chemicals Agency (ECHA) for EU REACH registration purposes. This significant cost had led to industry concerns that companies may choose not to register. This could potentially lead to fewer substances being available on the market, resulting in significant supply chain problems and the UK sector becoming less competitive.'

Unite is concerned that this screams for a far stronger regulation framework/regulator as UK REACH lacks institutional accountability to ensure transparent and open decision-making, particularly in relation to HSE decisions to reject or deprioritise EU controls.

Tripartite committees are absent in decision making, with the UK falling way behind the EU regards structured consultation. The current route is heading too near to that of de-regulation and offers organisations too much flexibility/freedom upon which/what they are required to report.