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American Home Furnishings Alliance  
European Regulatory Update: August 10, 2023

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# European Product Safety + Liability Update



**01**

Introduction –  
What trends are we  
seeing?

**02**

European  
Regulatory Update

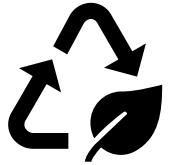
**03**

UK – Quick  
Update

# Current Trends in EU

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# Drivers behind reforms in Europe



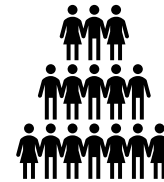
Circular economy



New technologies



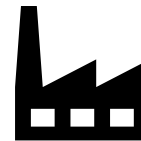
New marketing structures



Consumer empowerment



Resilient supply chains



Environmental, Social  
and Governance



# Unprecedented wave of change sweeping Europe



<p><b>New Representative Actions Directive applies to cases from June 2023</b></p>	<p><b>New Digital Services Act applies from February 2024 (earlier for some platforms)</b></p>	<p><b>RED Delegated Act on cybersecurity applies from August 2024 (proposal to extend by 12 months)</b></p>	<p><b>RED common charger applies from December 2024</b></p>
<p><b>General Product Safety Regulation applies from December 2024</b></p>	<p><b>Proposed Batteries Regulation</b></p>	<p><b>Proposed Cyber Resilience Act</b></p>	<p><b>Proposed AI Act</b></p>
<p><b>Proposed Machinery Regulation</b></p>	<p><b>Proposed EU code of conduct on age appropriate design</b></p>	<p><b>Revision of REACH + proposed PFAS restrictions</b></p>	<p><b>Revision of RoHS + Delegated legislation to add new restricted substances</b></p>
<p><b>Delegated Acts under existing ecodesign and energy labelling frameworks</b></p>	<p><b>Proposed Regulation on Ecodesign for Sustainable Products (new framework)</b></p>	<p><b>Proposed Directive on common rules promoting the repair of goods</b></p>	<p><b>Proposed Directive empowering consumers for the green transition</b></p>
<p><b>Proposed Directive on green claims</b></p>	<p><b>Revision of the Packaging and Packaging Waste Directive</b></p>	<p><b>Revision of the Product Liability Directive</b></p>	<p><b>Proposed Artificial Intelligence Liability Directive</b></p>

# General Product Safety Regulation

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# EU General Product Safety Regulation

<b>What is it?</b>	General Product Safety Regulation (EU) 2023/988, repeals and replaces General Product Safety Directive 2001/95/EC
<b>Why does it matter?</b>	<b>1</b> <b>New requirements for non-harmonised products:</b> including technical file, pre-market risk assessment, stricter labelling and appointing a responsible person in the EU
	<b>2</b> <b>Introduces accident reporting:</b> by manufacturer “without undue delay”, with separate obligation for online marketplaces to report
	<b>3</b> <b>New requirements for recalls:</b> including directly notifying all affected consumers, mandatory requirements for recall notices (including prohibition on using certain terms) must offer choice of at least <b>two</b> of <b>repair, replacement</b> or <b>refund</b>
	<b>4</b> <b>Updates to aspects for assessing safety of products</b> e.g., risks for vulnerable consumers, cybersecurity/connectivity, effect of software updates etc.
<b>Next steps and timing</b>	Entered into force June 12, 2023, with the requirements applying from December 13, 2024 Directly applies in Member States without the need for national legislation

# General Product Safety Regulation: deep dive into new labelling requirements

Non-harmonised products will now have to be affixed with/accompanied by the following information:

- 1 Type, batch or serial number to allow the identification of the product
- 2 Manufacturer/importer's name, registered trade name or trade mark + electronic and postal address, and, where different, the electronic and postal address of the single contact point at which they can be contacted
- 3 Clear instructions and safety information



# General Product Safety Regulation: deep-dive into new accident reporting requirement

<b>1</b> Threshold	<i>“Occurrences associated with the use of a product that resulted in an individual’s <b>death</b> or in <b>serious adverse effects on that individual’s health and safety</b>, permanent or temporary, including injuries, other damage to the body, illnesses and chronic health effects”</i>
<b>2</b> Where	<i>“[T]o the competent authorities of the Member State <b>where the accident has occurred</b>”</i>
<b>3</b> Timing	<i>“<b>Without undue delay</b> from the moment [the manufacturer] knows about the accident”</i>
<b>4</b> Who needs to report?	<ul style="list-style-type: none"><li>• Obligation on the <u>manufacturer</u></li><li>• Separate obligation for <b>online marketplaces to report</b></li><li>• Where manufacturer not established in the EU, “<b>responsible person</b>” in the EU must ensure a report is made</li><li>• Importers and distributors required to pass information onto the manufacturer to report, or to instruct the importer or distributor to report</li></ul>

# EU PFAS restriction proposal

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# EU Proposed PFAS Restriction

## What is it?

Five EU countries (the Netherlands, Germany, Norway, Denmark and Sweden) submitted a proposal to restrict a group of PFAS under REACH. **Biggest proposed chemical restriction** in EU history and has been several years in the making

## Why does it matter?

1

Only PFAS with the chemical formula in the proposal will be covered by the restriction. The definition encompasses **around 10,000 substances**

2

If adopted into law, will **ban** the manufacture, use and **placing on the market** of PFAS on their own and **in products**, including textiles, upholstery, leather, electric/electronic products and packaging, unless specific concentration limits are met

3

There are very few derogations and the majority of those are time-limited. If one or more time-limited derogations for the use of PFAS in articles apply, information obligations will continue to apply (e.g., reporting to ECHA)

## Next steps and timing

Public consultation closing **September 22, 2023**. ECHA Committees to adopt opinions Q1 2024, Commission expected to adopt the restriction **2025** (depends on ECHA Committees' opinions and MS vote), transition period **18 months**, could become enforceable **2026/2027**

# EU proposed Ecodesign for Sustainable Products Regulation

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# Proposed Ecodesign for Sustainable Products Regulation

## What is it?

Proposed Regulation on Ecodesign for Sustainable Products (repeals and replaces Ecodesign Directive 2009/125/EC), laying down a new ecodesign framework

## Why does it matter?

1

**Expands scope:** beyond energy related products to **all** products with few exemptions (e.g. food, feed, medicinal products), delegated legislation would then apply requirements to specific product categories

2

**Expands performance and information requirements + introduces digital product passports:** e.g. requirements for durability, reliability, reusability, upgradability, repairability, presence of substances of concern, recycled content (plus more)

3

**New rules for the destruction of unsold goods:** Commission's proposal includes transparency requirements (e.g. publish on website), would apply directly without need for delegated legislation, potential to ban destruction of unsold goods for certain sectors

## Next steps and timing

Council adopted position May 2023, Parliament adopted position July 2023, next step trilogues, Commission aiming for agreement Q4, 2023, no transition period proposed, but rules applied to product groups via delegated legislation expected to start to apply 2025/2026

# EU Deforestation Regulation

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# EU Deforestation Regulation

## What is it?

Regulation (EU) 2023/1115 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation (Deforestation Regulation)

## Why does it matter?

1

**Ban on selling on the EU market or exporting from the EU:** in-scope products and commodities if they are not deforestation-free or have not been produced in accordance with certain laws of the country of production (human rights, labour rights, indigenous peoples' land tenure rights). Must be accompanied by a due diligence statement

2

**Covers prescribed list of commodities:** including wood, cattle, cocoa, coffee, oil palm, rubber, soya. The in-scope products made from these commodities include certain paper, packaging, and leather (plus more)

3

**Other requirements include:** undertaking due diligence, risk assessments regarding compliance, mitigation measures to check the origin of products, publicly reporting etc.

## Next steps and timing

Entered into force June 29, 2023, with the rules applying from December 30, 2024 (there is a longer transition period for certain SMEs)

# EU Textiles

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# EU Proposed revision of the Textile Labelling Regulation

## What is it?

Revises EU textile labelling rules by introducing comprehensive requirements on the physical and digital labelling of textiles and related products. It addresses shortcomings in the current rules as well as diverging labelling requirements between Member States.

## Why does it matter?

1

Will likely **introduce specifications for physical and digital labelling of textiles**, including sustainability and circularity parameters based on requirements under the proposed Regulation on eco-design for sustainable products.

2

The **scope of the existing** Textile Labelling Regulation **doesn't apply to all furniture** – e.g. would apply to furniture, mattress coverings where contains at least 80% by weight of textile components.

3

More **novel labelling domains** being considered, which are today not widely present include flammability, organic/bio-origin and a social label, are not expected to add costs at a significant scale, mainly due to consistency with other EU legislation.

## Next steps and timing

Estimated that the legislation will be **passed 2024 / 2025**, with the **rules applying 2025 / 2027**. **Draft legislation expected** to be published by the Commission **Q4, 2023**.

# EU Proposed targeted revision of the Waste Framework Directive

## What is it?

The European Commission presented the Extended Producer Responsibility (EPR) schemes for textiles. Under EPR schemes, producers are responsible for covering costs of collection, sorting, recycling and recovery (amongst others).

## Why does it matter?

1

**Collection of used and waste in-scope textiles** and subsequent waste management, including e.g., collection of used products, re-use and recycling, sorting, preparation for re-use, recycling and other recovery operations and disposal of collected loads.

2

**Data gathering and reporting to the competent authorities** and included support to research and development to improve the sorting and recycling processes, in particular, in view of scaling up fibre-to-fibre recycling.

3

**Carrying out compositional surveys of collected mixed municipal waste** and providing information on sustainable consumption, waste prevention, re-use, preparing for re-use, recycling, other recovery and disposal of textiles and footwear products.

## Next steps and timing

Public consultation closing on **September 4, 2023**. The proposal will then make its way through the ordinary legislative process to reach agreement on the final text.

# EU – Product Liability

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# EU Product Liability Reforms – Updated Directive & New Class Actions Mechanism

<b>What is it?</b>	<ol style="list-style-type: none"><li>1. Reform of EU Product Liability Directive (85/374/EEC)</li><li>2. New Class Actions Directive - (EU) 2020/1828</li></ol>
<b>Why does it matter?</b>	<b>1</b> The EU is planning to radically reform its product liability laws to amend the existing Product Liability Directive (85/374/EEC) to expand the scope of claims that can be brought and the range of damages that can be recovered, and to make it easier for consumers to prove their case.
	<b>2</b> At the same time, the EU's new class action regime has been introduced in last couple of months. Introduces class action mechanisms in every one of the EU's 27 member states, as well as a new cross-border mechanism.
<b>Next steps and timing</b>	Reforms of Product Liability Directive expected to apply from end of 2024 onwards. Class actions were due to apply to cases brought from June 25, 2023.



# UK regulatory update

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# UK Review of Furniture and Furnishings (Fire) (Safety) Regulations

## What is it?

Last week, UK Government published a consultation on their newly proposed approach to fire safety of domestic upholstered furniture. The UK government is now seeking feedback.

## Why does it matter?

1

**Revised scope:** the consultation states that the new approach will apply to (i) the supply of new or second-hand upholstered products, and (ii) the supply, by re-upholsterers, of upholstery added by them to upholstered products, with specific exceptions.

2

**New essential safety requirements:** (i) new warning labels for outdoor furniture; (ii) updated fire safety requirements for new upholstered products; (iii) a flame retardant technology hierarchy; and (iv) new labelling requirements for upholstered products.

3

**Testing requirements:** manufacturers must, in the design and manufacture process: identify the essential safety requirements, assess their conformity against standards, and conduct detailed tests of the upholstered product in its final form.

## Next steps and timing

The consultation is open until **October 24, 2023**. The consultation lays out that the goal of the Government is for the new approach to take effect as of **October 1, 2024**.

# UK PFAS

## What is it?

Health and Safety Executive (HSE) published analysis of the potential regulatory management options for PFAS. Has prompted consideration of new legislation.

## Why does it matter?

1

**HSE will prepare a restriction dossier** proposing one or more restrictions of PFAS, including **restrictions on the manufacture and placing on the market of consumer products containing PFAS.**

2

**PFAS used as processing aids in the manufacture and processing of fluorinated polymers may be subject to authorisation.**

3

HSE will further **evaluate and investigate Trifluoroacetic acid, EEA-NH<sub>4</sub> and perfluoroalkanes and perfluorocycloalkanes.**

## Next steps and timing

Government to develop and publish new draft regulations for further consultation. Timing unknown at this stage.

# UK Product Safety Review

## What is it?

The UK Government on, 1 August 2023, published its long awaited proposals for reform of the UK product safety regime. The consultation outlines 13 wide-ranging groups of reforms covering core aspects of product safety policy. The UK government is now seeking feedback.

## Why does it matter?

1

**New accident reporting:** Mandatory incident reporting in the UK for product-related incidents (the potential threshold flagged for discussion in the consultation is incidents resulting in deaths, injuries requiring an overnight stay in hospital or fires).

2

**Reviewing the product liability regime:** to include changes that are required to deal with perceived risks arising from software updates, AI, and online sales.

3

**A new approach centred around potential hazard:** potentially a big change to a cross-cutting framework categorising products by hazards & risk levels instead of sectors / technologies.

## Next steps and timing

The consultation is open until **October 24, 2023** and is a really important opportunity for industry to have their say on these potential reforms.

# Thank you!



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