Addressees: Members of European Parliament Employment Committee

4 January 2017

Dear Sir/Madam,

The European Parliament Employment Committee is currently discussing the draft report on the Commission's proposal of 13 May 2016 to revise the directive on protecting workers from exposure to carcinogens and mutagens at work. The vote is due on 28 February.

We have strong concerns about the approach taken in the draft report.

European employers are committed to effective protection of workers from occupational cancer and we support the setting of binding occupational exposure limit values at EU level, as this helps to provide a level playing field for industry and worker health and safety protection across the EU. Whilst some sectors have concerns regarding specific substances, overall, we support the Commission's proposal for a restricted revision of annexes 1 and 3 of the directive.

The approach taken by the Commission in terms of the limit values is the best way forward, as it aims to base them on sound scientific evidence, technical and economic feasibility and a thorough assessment of the socio-economic impact. This allows for effective implementation of the limit values by industry and therefore a high level of worker protection. Furthermore, the proposed limit values are based on the opinions of the tripartite Advisory Committee on Safety and Health, representing a general consensus between worker, employer and government representatives from the 28 member states.

European employers are therefore opposed to the following proposals in the draft report:

1. **Lower limit values for a number of substances and for different substances to be covered by the directive.**

This goes against this general consensus, as well as endangering the delicate balance found between scientific evidence and feasibility. And even more importantly, such low limit values as those proposed in the draft report will not necessarily better protect workers, if they cannot be enforced. Additionally, these lower limit values are not fully scientifically justified and have not been considered in the Impact Assessment. Furthermore, to comply with limit values, it is necessary to measure the level of exposure of the workers. For most of the substances included in the draft report for which a lower limit value is proposed, there is a lack of accurate, available and evidence-based techniques and methods for measurement at such low exposure levels. This makes it impossible to monitor and control at the workplace. If the substance can´t be measured, a low limit value will have no effect.

2. **Extending the scope of the carcinogens and mutagens directive to substances toxic for reproduction, i.e. reprotoxic substances.**

This directive was originally specifically conceived for dealing with those carcinogens and mutagens, which have no safe exposure level. This means that the focus in the directive is on substitution and where this is not possible, closed systems and bringing exposure levels as low as is technically achievable. For reprotoxic substances, it is scientifically recognised that they are 'threshold agents' which means that it is usually possible to identify levels at which exposure does not have an effect on health. This means that a health based limit can generally be set. Therefore, reprotoxic substances currently fall under the scope of the chemical agents directive, and not the carcinogens and mutagens directive. This remains the correct legislative framework to ensure that the exposure to

these types of substances can be addressed if deemed appropriate, by the setting of limit values, control measures, and training and health surveillance. Furthermore, these proposals have not been subject to impact assessment.

3. **Introduction of an obligation for employers to conduct health surveillance for all workers, even after they have left the enterprise.**

As employers, we acknowledge the importance of conducting health surveillance of workers. It is important to recall that according to the EU Treaty, health and safety at work is covered by minimum EU level standards and measures have to take account of the diverse forms of national practice which exist in this area. Therefore, the details of the health surveillance should remain a competence of Member States. The framework directive 89/391/EC on health and safety at work already includes an obligation for employers in this respect, which is sufficient. It would be very challenging for employers to keep track of all of their employees throughout the course of their working life, when moving between different enterprises, sectors and even countries. Additional complications would arise in determining responsibilities and the cause of ill health, and administrative burden.

In conclusion, we understand the need for an ambitious proposal to protect workers from exposure to carcinogens and mutagens at the workplace. European employers fully share this objective, which is in line with the joint agreement signed by the European Commission, the European Agency for Health and Safety at Work, the European cross-sectoral social partners BusinessEurope and ETUC, as well as the Dutch and Austrian social ministries, committing to reduce exposure to carcinogens at the workplace by exchanging best practices (https://roadmaponcarcinogens.eu/). We believe that the Commission's original proposal provides for that level of ambition, by including binding limit values for a number of additional substances classified as carcinogenic. Not to mention that the Commission will come with further waves of substances to be included in the directive. And in actual fact, many of the proposed limit values already create substantial challenges, especially for SMEs and micro-companies.

However, we have strong concerns that proposing lower limit values for a number of substances and considerably extending the scope of the directive, will only lead to drawn-out and difficult discussions with the Council and Commission. This will not be good for worker protection, nor for the credibility of the EU and its decision-making process.

We therefore strongly encourage you as member of the EP Employment Committee, to come to a sensible conclusion of this file, by supporting the approach taken by the Commission and the Council, so that an agreement can be found in good time.

Yours faithfully,

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