

United Kingdom Textile Laboratory Forum

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Europe Reform Directorate
Dept of Business, Innovation and Skills
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Attention: Terry Edge

Date: 07 October 2014

Dear Terry,

Response to consultation on F&F Regulations

UKTLF members, representing more than 12 different testing laboratories, met at a meeting on 17th September to discuss the proposed changes to the Furniture & Furnishing (Fire)(Safety) Regulations 1988 as outlined in the consultation document dated August 2014. Amongst those present was Mr Steven Owen of Intertek.

Before responding to the specific questions posed by the consultation document, UKTLF would like to express our concerns that since the publication of this document, there appears to have been a set of ever changing goalposts and it became apparent from Mr Owen's responses that the document we were discussing was now out of date as a number of decisions would appear to have been taken since the consultation was initiated which have the potential to alter the responses that UKTLF would submit.

All UKTLF are accredited to ISO 17025:2005 and the majority carry out flammability testing to the F&F Regulations. We were all aghast at the lack of detail given in the consultation document regarding the proposed changes to the test methods. UKTLF members were unanimous in their criticism that the detail given would be insufficient to allow members to carry out the testing in a uniform and unambiguous way and in a manner which would be capable of withstanding the scrutiny of UKAS as the UK Government-appointed accreditation authority, a fact even acknowledged by Mr Owen. This could lead to UKAS deciding that the new testing methods are 'unaccreditable' and therefore potentially undermining the whole regime set out in the Regulations.

UKTLF also takes exception to the manner in which it would appear industry backing given some 4 years ago for the complete updating of the Regulations has been mis-represented in the consultation document as construing support for this selective amendment. In particular UKTLF members expressed the view that we retain strong reservations that the proposed changes, when taken in isolation without consideration of the many other issues of concern, will actually result in a lowering of safety standards for the consumer rather than achieving the intended purposes of a reduction in the use of FR chemicals and a cost saving to industry.

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UKTLF notes that it appears to be Government's intention that the new methods are embodied in an Annex (or Schedule) of the Regulations. However as we are given to understand, these Schedules will not be 'idiot proof' and will fail to spell out many of the minutiae that are critical to the correct conducting of the tests, preferring to rely on implications buried within the body of the actual British Standard test methods on which the Schedules are based. Such minutiae are difficult enough for UK industry to understand and interpret, let alone those overseas for whom English is not a first language. UKTLF would strongly recommend that such an approach is discouraged, even if this means that the resultant Schedules become somewhat more detailed than were originally envisaged.

Our responses to the specific questions posed in the consultation are given below:

- Q1: No – we are of the opinion that it is likely that the proposals could see a significant reduction in the levels of fire safety offered to the consumer as much of the proposed changes are ill thought out and have not been validated robustly. At best, the proposals will result in the choice of flame retardants used in furniture changing to less effective ones if the 'green lobby' are permitted to rule over the need to ensure fire safety by their desire to outlaw more and more flame retardants. The aim to reduce the use of flame retardants, whilst an honourable target, conflicts with the UK's long held position regarding fire safety for upholstered furniture.
- Q2: No – UKTLF is of the opinion that the need to change the current match test has not been properly set out and is a reaction to the green lobby and conflicts with existing UK policy on consumer protection. The case against flame retardants in general and against specific flame retardants in particular, has not been made and relies heavily on unproven and somewhat anecdotal evidence from other countries including the USA as to the effects and source of these flame retardants. Changing the match test will not in our opinion change the presence of flame retardants in the furniture and thus will not reduce the alleged risks to consumers.
- Q3: No – UKTLF is of the view that the proposed changes introduce many more variables to the testing regime as well as introducing ambiguity as to what a manufacturer or component supplier needs to do in order to be compliant with the proposed changes. Further details of UKTLF's assessment of the problem are given in Annex 1 of this response.
- Q4: UKTLF is of the opinion that the proposed inclusion of a test for unregulated materials will prove difficult to police and enforce. In particular the test proposed is inadequately detailed and it is not clear from the consultation document as to what materials are included and which ones are excluded. We are aware that some sectors of the industry have held separate meetings with BIS on this topic but UKTLF is unaware of the outcome of such meetings.

The proposed test will only seek to identify if the unregulated material is easily ignitable or not and will not take in to account how it may burn in conjunction with the other materials around it. As such the test would only be considered to be representative of materials which are entirely surrounded by air in the final furniture. The presence and contact of two different materials can result in quite different behaviours than when each component is tested individually, something which the consultation document appeared to recognise in principle.

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If unregulated materials are a problem then it would better to consider permitting enforcement authorities to conduct their testing on whole items of furniture even though UKTLF recognises that not all of our members will be equipped to conduct such testing. However testing of the individual components will not, in our opinion, have the desired effect.

- Q5: No. UKTLF is under the impression that the amount by which the use of flame retardant chemicals will reduce will be minimal and therefore the cost savings will also be minimal at best. In the short term, industry will have to re-test every single material being used in order to establish whether or not they can continue to use these materials in the future if these proposals are brought in to law. In addition there will also be a likely increase in testing costs arising from the need for laboratories to carry an increased number of standard materials for testing and also to our customers as they may need to conduct multiple match tests on a material using both filling 1 and filling 2, and possibly with and without any lining(s) that may also be used. UKTLF suspects that the potential savings to industry have been grossly overstated.
- Q6: We believe that BIS has attempted to make these changes to both satisfy the 'green lobby' and also in an attempt to try and further European Commission desire to introduce similar fire safety Regulation throughout European Member States. However mainland Europe tends to have a very different attitude towards fire safety, preferring to deal with rate of spread of fire rather than resistance to ignition. As such these proposed changes will not meet with approval within other EU Member States without being imposed by the Commission from above. In addition the timing of the proposed publication of these changes smacks of political interference and in the opinion of UKTLF any changes should be postponed and changes to the whole of the Regulations brought forward at a later date.
- Q7: UKTLF would rate these proposals as zero. They are ill advised and ill thought out in their present form and fail to address numerous wider issues that could and should have been considered at the same time.
- Q8: At the original consultation back in 2009, many other aspects of the Regulations were reviewed and industry supported to idea that the whole Regulations would be updated, not revised but a wide range of amendments made to address issues that have existed ever since the Regulations were originally published. The passage of time has not altered this view and the attempt to tackle some of the issues on a piecemeal basis without considering the implications that the changes will have on other aspects such as the scope of products within or outside the Regulations is foolish and will only result in even greater confusion within the furniture supply chain.

Yours sincerely,

Redacted

On behalf of UKTLF

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Annex 1 to UKTFLF Response to BIS Consultation on F&F Regulations

In addition the detail provided in the main body of our response, UKTFLF members have requested that we outline the many issues associated with the proposed changes to the test regime as set out in the consultation document.

- (i) UKTFLF disagrees that a cigarette test is 'not' needed for fabrics with a high synthetic fibre content. What constitutes a 'high' synthetic fibre content? 51%, 95%? We do agree that for 100% synthetic materials a cigarette test may not be required but the presence of potentially even as little as 5% of other fibre could significantly affect the likely behaviour of a fabric when exposed to a smouldering ignition source. Such smouldering sources tend to be slow to develop but their consequences can be just as deadly as a flaming ignition source.

Although smoking has reduced in popularity since the Regulations were introduced in 1988, and despite the introduction of reduced ignition propensity cigarettes, smoke alarms, and the effects of controlling fillings via these Regulations, nevertheless a considerable proportion of the UK population still smokes and the risk, although diminished, still remains from fires started by cigarettes. UKTFLF members have data to indicate that even on foam fillings meeting the current requirements of Schedule 1 of the Regulations, nevertheless smouldering failures for a cigarette test still occur.

- (ii) UKTFLF is also opposed to the removal of the cigarette test for most fabrics which are exempted from match testing by virtue of their fibre composition. We would agree that for wool fabrics the cigarette test may not be applicable but for cellulosic materials such as cotton and viscose and for lightweight fabrics which would include silks then we are of the view that these fabrics remain at risk from a smouldering ignition source.
- (iii) UKTFLF does agree that the cigarette test for non-visible covers could possibly be removed if there sufficient safeguards to ensure that the final construction of furniture did not expose the consumer to a risk of smouldering. The removal of the test could be limited only to those materials which do not form a horizontal surface on which a cigarette could come to rest.
- (iv) For the proposed match test using 2 different fillings, Steve Owen (at the UKTFLF meeting held on 17th September) stated that the overall thickness of the composite used for testing must remain at 75mm as specified in BS 5852:Part 1:1979. We do not disagree with this but this does highlight two related matters:

(a) the need for the specification of the polyester fibre layer used in Filling 2 to be clearly defined, and

(b) the need for testing laboratories to then carry foam fillings for these tests at different thicknesses to cater for testing with and without the polyester fibre layer.

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Unless the thickness of the polyester layer is specified, this could lead to testing laboratories using very different thicknesses of polyester, made up to the required 75mm thickness with foam. This in turn can significantly alter the burning behaviour of the fabric being tested. It would be preferable to standardise the nominal thickness as well as the weight and even possibly to standardise the foam layer as well as to ensure that suitable polyester fibre is available on a global basis. In addition, UKAS would expect accredited laboratories to be able to demonstrate that the polyester layer used complied with any specification. Quite how one proves that the polyester is heat bonded rather than bonded by another means is one likely question that we would be asked.

We would suggest that the foam be 50 mm thickness and the polyester layer be a nominal 25mm thickness, thereby satisfying the overall 75mm thickness stated in BS 5852:Part 1.

- (v) The text of the proposed test methods must be written in language which is clear, unambiguous and 'idiot proof'. This means where necessary using diagrams to supplement text and using language which can be understood by those for whom English is not their native language. Any failure to adhere to this approach will only result in some laboratories misunderstanding the testing method and therefore invalidating all testing carried out.
- (vi) The matter of unregulated materials still needs to be resolved. There remain many concerns about how to test small components such as plastic screws for whom it is not possible to know or determine their intended orientation nor to apply a flame 45mm above the bottom edge of a component that may be less than 45mm in overall dimension.

In addition there also remains a question of how to define what an 'unregulated material' is. Does this include the plastic shell of say a car seat? Does it include the plastic arms of a chair which only has an upholstered seat but the base of which would be within a locus of 40mm of the nearest part of the textile cover? Is it only components inside the upholstery rather than components on the outer surface but within 40mm? There will be many other examples of materials which may or may not be intended to be captured under the 'unregulated materials' test proposed.

- (vii) UKTLF members including Mr Owen agreed that the change in afterflame time of 10s is ONLY applicable to the unregulated materials test and not to the general match tests. This is not clear from the consultation document.
- (viii) The introduction of a 2mm² hole as discriminating between protective and non-protective covers gives rise to difficulty in determining if any hole is at least 2mm² in area. Any handling of the tested material is likely to cause rupture of any char and thus may create a hole where none existed during the test. Similarly any attempt to insert a probe of an appropriate size into a potential hole will lead to difficulty in both insertion of the probe without causing damage and knowing whether or not the probe has penetrated through the char to the filling below or not.

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UKTFLF members were of the view that the area of any minimum hole size should be sufficient to permit easy unambiguous identification that a hole exists rather than relying on trying to determine whether or not the size of the hole is critical. Such determination should be capable of being carried out whilst the sample is still in the test environment.

For fabrics which tumesce, determination of a hole will be considerably more difficult than for a fabric which does not tumesce but simply chars or for fabrics with synthetic fibre content for which the presence of a hole is considerably more easily identified.

- (ix) Given that the new test regime being proposed separates out cover materials which are protective from those which are not, there may be a need to introduce new labelling or classification scheme which identifies and conveys such differences in consumer protection to the consumer and possibly within the supply of such materials for the purpose of manufacture or re-upholstery of furniture.
- (x) UKTFLF would also note that any change to the Regulations must be accompanied by a guidance document published at the same time. The guidance document must be written in clear and unambiguous language and should answer any potential question which has not been addressed within the text of the amendment to the Regulation itself. For example this may need to include statements that the polyester layer for filling 2 shall not extend around the sides or top of the underlying foam as it may not be clear from the method that this would be the case. Work carried out by one UKTFLF member against the consultation document had been done without reduction of the foam thickness and with the polyester layer extending around the sides and top edges of the foam layer. The member concerned was aware that this may not have been correct but the consultation lacked the detail to confirm that this was the case.

In addition to the above there were many other opinions expressed at the UKTFLF meeting but for which a consensus was not agreed. Individual members have therefore agreed to submit their own additional submissions to the consultation in addition to that agreed and produced on behalf of the whole UKTFLF membership.