

Europe Reform Directorate
Dept of Business, Innovation and Skills
4th Floor, Orchard One
1 Victoria Street
London
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Attention: Terry Edge

Date: 07 October 2014

Dear Terry,

Response to consultation on F&F Regulations

You will be in receipt of a formal response from UKTLF on behalf of the UK Textile Testing Laboratories. However, as was agreed at meeting of UKTLF, individual members would also submit their own additional comments on this consultation where those comments were not addressed in the UKTLF response. Please therefore find below comments for HSTTS.

1. We were very disappointed that the details in the consultation were lacking in detail as regards the proposed test methods. During the period of the consultation, we became aware through other trade organisations to which we belong and from talking to customers that the proposals were evolving and changing on the fly each time they presented to a different forum. This meant that it became impossible to evaluate the proposals with any degree of confidence that we were interpreting their intentions correctly. This also means that there is a lot of confusion within industry as to what precisely is being proposed.
2. We do not agree with the proposals to alter the filling for the match test. Whilst we agree that compliant furniture will contain filling materials meeting Schedule 1 or Schedule 2, nevertheless recent media programmes have highlighted that the type of fillings actually present in current furniture is not always compliant and that the enforcement of the existing Regulations is woefully inadequate. As such any change of testing regime will be fatally undermined by the lack of enforcement which currently exists. It is no good having Regulations if the enforcement regime is so lax that suppliers know that the chances of being caught are slim. As such changing the test regime without beefing up the enforcement side will not produce the desired effect as 'compliant' manufacturers will spend the extra time and cost in maintaining compliance with whatever regime is set out whilst non-compliant manufacturers will pay as much heed to the new regime as they have to the current one.

In addition we are aware through various inter-lab trials that foams of nominally identical specification and complying with Schedule 1 of the Regulations can produce widely differing test results for a given fabric. As such, the proposed change of material would need to be validated using many more labs and different sources of compliant filling than appears to have been the case.

3. Further to 2), it is admitted by Steve Owen of Intertek that 'Filling 2' is not representative of fillings such as feather and down, natural fibre battings, etc. As such Filling 2 cannot be considered to be a 'worst case' filling even though the proposals make such a proposition. The existing non-FR filling, whilst not legally permitted, is nevertheless a filling which ensures, and has done so for over 30 years, that the cover provides protection to all fillings from smokers' materials. Any change to an FR filling can only result in a likely reduction in consumer safety where fillings that are not foam and not polyester fibre are used. This change is ill conceived and has not been validated for other types of filling.
4. The change from non-FR to FR foam for the match test will permit non-protective covers to be used (I.e. covers which form a hole). The use of an FR filling will permit the use of fabrics which hitherto have been considered to not offer any protection from smokers' materials.
5. To date, the specification of the polyester layer for filling 2 has been inadequate. The specified mass of 200 g/m² would permit polyester of varying thickness and density to be used whilst satisfying the weight criterion. Different polyester fibres (of varying decitex) can produce the same weight of material but at very different thicknesses and densities. It is vital that the polyester is specified by thickness too or by density in order to ensure that the ratio of textile to air remains approximately constant. Unless this is done it is likely that different labs will obtain differing results and thus undermine the whole point of testing as it would prove impossible to demonstrate who was right or who was wrong. It is also vital that the polyester specified must be available from multiple sources, both in the UK and overseas, or a single source specified under cast iron guarantees of long-term supply, otherwise we risk a repeat of the situation regarding the FR polyester fabric where the material specified is not commercially available.
6. The suggestion that filling 2 represents a worst case filling is invalid, not only for the reasons previously given, but for a fabric supplier they cannot know what filling may or may not be used beneath the fabric they supply. Therefore they may end up conducting two sets of match tests using both filling 1 and filling 2. As this will require separate test apparatus to be set up rather than conducting one set of tests on a single apparatus, and will involve the use of more than one filling (see UKTLF response regarding this) so the cost from the test lab to the client will increase and thus the burden on industry will increase. Not, I'm sure, what was envisaged!
7. The proposals say that fabrics used directly over a lining shall be tested with the lining. This will need to be clearly specified within the relevant Schedule. It is not clear if the lining needs to comply with Schedule 3 or not? If so this will inevitably restrict the number of compliant linings available. It is also not clear for cover fabrics meeting the fibre composition requirements for exemption whether or not the presence of a lining which itself is potentially flammable significantly changes whether or not these cover fabrics are capable of complying with the proposed requirements. This needs urgent and thorough investigation before any such exemption is permitted. Fabric suppliers will not know if a lining is to be used or not but there will be a risk of claiming compliance for a fabric which is not protective and the fabric being used in an inappropriate construction.

8. The proposed test for unregulated materials is inadequately described. As the purpose is to ensure that individual components are not readily ignitable when not visible, it fails to address how more than one unregulated material in close proximity to another may behave. No individual component test can ever predict this and a full scale item test would be necessary.

I am well aware that some sectors of the industry are resistant to the introduction of full item testing but is genuinely the only way to evaluate the behaviour of the finished item. Claims that full item testing will involve considerably more testing are not justified and arise because the individuals concerned have not understood the principles of the test. As one of those responsible for the development of this test predating the current Regulations and before the test method was finally published by BSI, it was always the intention that this route would become the ultimate arbiter of compliance of furniture design.

9. For some unregulated materials such as narrow fabrics, I fail to understand why other existing vertical strip methods of test have not simply been used rather than trying to create a new method based on an inappropriate test method. Methods such as BS AU169a or a modified ISO 6940 would have been just as appropriate.
10. None of the proposed tests have been validated through properly organised inter-laboratory trials. All the work has been done by a single laboratory and any other testing has been guesswork by the other laboratories attempting their own interpretation of the proposed tests. This is gross bad practice in the development of any test method. We are aware that there have been significant discrepancies between those tests carried out by Steven Owen of Intertek and those by other labs. This in turn means that in the event of a prosecution for non-compliance the tests could be challenged in a Court of Law as invalid, unreliable or unenforceable unless steps are taken to identify and eliminate the potential sources of error between labs and to ensure the robustness of the tests.
11. The rationale based on the decision of California is flawed. California decided that smouldering sources are now more important than naked flames and this has been used to attempt to justify changes to the UK Regulations. However the types of material used and design of furniture used in California differs from that commonly found in the UK and this may have a material effect on whether the regimes are effective or not.
12. The proposals state that fabrics used over linings shall be tested in conjunction with those linings. However what testing, if any, is prescribed for a lining supplier so that they can offer a furniture manufacturer assurances that their lining will not introduce potentially flammable behaviour in an article of furniture? This appears to have been completely overlooked in these proposals and leaves the furniture manufacturer needing to test the cover fabric over the lining, thereby repeating testing already done by the fabric supplier and increasing the burden of cost on industry.

13. What is the justification for the exemption of polypropylene linings below 90g/m² yet there is no exemption for other similar fabrics below 90 g/m²? Just because the majority of such materials are currently polypropylene this does not mean that this will always be the case and if a supplier produced a polyethylene cover of less than 90 g/m² weight then this would have to be tested according to the current proposals. This is plainly absurd and unnecessarily design restrictive.
14. It is our view that these proposals will not lead to any reduction in the amount of flame retardant chemicals used. Indeed, many of the chemicals which might be assumed to be reduced form but a small proportion of the overall flame retardants used and these proposals do nothing to address the use of such chemicals in the fillings.
15. Both the original BS 5852 series of standards and the more recent EN 1021 series are based on composite testing. In both cases, where different materials are used in seat and back (or arm) then multiple composites were required to be tested. Testing using both the current regime and the proposed one falls short of this as it is only designed to assess individual components in isolation from any other component and does not assess the interactions between the various components. The only true method of assuring the safety of the final construction of furniture is full scale item testing.

This is not to say that there is not a place within the overall scheme for testing of individual components but the final proof of safety must be the behaviour of the finished article to the relevant ignition sources. This places the burden clearly on the importer or manufacturer and takes the main burden for demonstration of compliance off the component suppliers. A regime could be constructed whereby enforcement authorities test the full item and any failure is non-compliance unless the furniture manufacturer can demonstrate that both the individual components were compliant with the relevant test and that they have conducted type testing to demonstrate that there is no negative interaction between the components in the final assembly.

16. The proposed regime does not clarify whether the requirements for linings will extend to items such as pillows and cushions for whom the lining fabric is often non flame retardant and may be made of a flammable fabric. At present, the requirements for cushions and pillows apply to the fillings rather than to the covers. Under the new regime for unregulated materials, such cushion linings are within 40mm of the outer cover and would therefore be subject to the new requirements. Most will fail! This is another example of trying to tweak the Regulations without considering the implications of such proposed changes elsewhere in the Regulations.
17. Why, in these proposals, is it continuing to use BS 5852:Part 1:1979 rather than choosing to move to EN 1021-1 and EN 1021-2 albeit with modifications? This is no different from the existing regime which modifies existing methods of test such as BS 5651:1978 for the water soaking procedure and BS 5852:Part 2:1982 for the testing of interliners and filling materials.

18. We have also heard rumours (not part of the consultation document) that changes to the cigarette specification are being considered. We would oppose such a change unless it can be demonstrated through extensive inter-lab trials that the use of reduced ignition propensity (RIP) cigarettes can be shown to produce reproducible and reliable burning behaviours under test conditions.
19. In the proposed unregulated materials tests, how are solid objects to be attached to the frame? The method of application of the ignition source flame to the item is not specified either. This can significantly impact on the outcome of the testing as for some components it will not be possible to apply the flame to the 'face' of the component but only to the 'edge'. We understand from Steve Owen that this is not what was intended.
20. In the presentation sent out after publication of the consultation document but relating to the unregulated materials tests, easily ignitable items may be still be used under a 'protective' cover. 'Protective cover' needs to be clearly defined in the body of the Regulations.
21. From the list of exempted unregulated materials contained in Steve Owen's testing, I doubt that much if any upholstered furniture contained plasterboard or stone and the presence of such materials within a list of exempted materials makes a mockery of the purpose of such a list. Equally there are some dangerous assumptions made that regardless of manufacture, all types of sheet card over 1mm, fibre board, etc will also pass the test for unregulated materials. Of particular concern would be where the cover fabric is directly over such materials and is non-protective (i.e. forms a hole) and therefore the potential duration of application of a naked flame would far exceed the 10s of the test regime.
22. The testing by Intertek and also that by FIRA is restricted to certain types of fabric and, in our opinion, does not adequately cover the range of different materials used or likely to be used if the Regulations are amended as proposed. In particular we are concerned that conclusions drawn by BIS on the validity of the proposals appear to conflict with evidence from other sources as to the effectiveness and cost savings likely to be achieved from these proposals.
23. Although we were not individually part of the original consultation process back in 2009-10, as part members of UKTLF we are disappointed that initial support given to the proposal to revise or amend the whole of Regulations has been misrepresented as supporting these specific proposals, the details of which were not even conceived of at the time of the original consultation.

Overall we are disappointed with the whole consultation process on these proposals, lacking as they do any detail sufficient to allow proper evaluation of the proposals and being subject to being changed or the interpretation of what is meant or intended changing on the fly as the consultation process has progressed. Whilst we acknowledge that any text circulated at this time would have been subject to change, nevertheless the proposals failed to contain any detail or substance as to exactly how the proposals will be implemented in to the existing text of the Regulations. This has made it virtually impossible to evaluate the implications that may arise with regard to other aspects of the Regulations such as exemptions, labelling, etc.

There has been considerable delay in publishing this consultation even though the document itself changed little from one that was 'leaked' within the industry more than 6 months earlier. Allied to the publication coinciding with annual holidays and the shortness of the time before the proposed implementation date, it is our view that this consultation once published has been excessively hasty and that the timetable for Regulation being laid before Parliament does not allow sufficient time to satisfactorily address many of the issues raised by the industry.

Textile laboratories such as HSTTS are in the forefront of assisting industry to comply with Regulations. The lack of detail and the potentially flawed approach to these proposed changes will have significant impacts on our customers and on their ability to comply with the new proposals, even allowing for an 18 month transitional period.

Yours sincerely,

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