2016-007

Redacted

Department for
Business, Energy
& Industrial Strategy

Consultation on updating the Furniture and Furnishings (Fire) (Safety) Regulations (FFRs) response form

The consultation is available at: www.gov.uk/government/consultations/furniture-and-furnishing-fire-safety-regulations-proposed-changes-2016

The closing date for responses is **11 November 2016**.

The form can be submitted by email to: furniture.consultation2016@bis.gsi.gov.uk or submitted by letter to:

Christine Knox
Regulatory Delivery
Department for Business, Energy and Industrial Strategy
Second Floor
1 Victoria Street
London
SW1H 0ET

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the section on confidentiality and data protection on page 7 of the consultation for further information.

If you want information, including personal data, that you provide to be treated in confidence, please explain to us what information you would like to be treated as confidential and why you regard the information as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☐

Comments: Click here to enter text.

Questions

Name:
Organisation (if applicable): Association of Master Upholsterers and Soft Furnishers
Address: The Clare Charity Centre, Wycombe Road, Saunderton, Bucks HP14 4BF

	Respondent type
☒	Business representative organisation/trade body
☐	Central government
☐	Charity or social enterprise
☐	Individual
☐	Test House
☐	Manufacturer
☐	Retailer
☐	Large business (over 250 staff)
☐	Legal representative
☐	Local government
☐	Medium business (50 to 250 staff)
☐	Micro business (up to 9 staff)
☐	Small business (10 to 49 staff)
☐	Trade union or staff association
☐	Other (please describe)

Questions on scope

Q1 Do you agree with the revised definition of the Regulation's scope?

☒ Yes ☐ No ☐ Not sure

Comments: The new definitions and listed exclusions gives greater clarity.

Q2 Do you agree with the proposals relating to sleeping bags and mattress protectors (i.e. those which can be put in a washing machine are explicitly removed from scope and do not have to meet the requirements of the regulations)?

☐ Yes ☐ No ☒ Not sure

Comments: We agree that these should be excluded but the definitions need to be tightened up to give greater clarity as to what is a mattress topper, protector etc. Some more guidance perhaps as to what size washing machine – domestic or commercial etc.

Q3 Do you agree with the proposals relating to cushions and seat pads (i.e. that they remain excluded from cover tests but the definition of these products to be specified more clearly)?

☒ Yes ☐ No ☐ Not sure

Comments: We would welcome a single dimension criteria of a 60cm x 60cm x nominal thickness which the unfilled product can be measured against. Any dimension greater than 60cm in any direction would require the product to be included.

We would suggest that the labelling requirements for these products i.e. compliance of the filling materials be re-stated along with confirmation of the position that when a scatter cushion is sold as part of a suite it must comply, irrespective of the 60cm rule or if sold as a separate entity when the 60cm rule can apply.

Q4 Do you agree with the proposals relating to outdoor furniture (i.e. that outdoor furniture unsuitable for use inside the home, and clearly labelled as not complying with the Regulations) should be out of scope?

☐ Yes ☐ No ☒ Not sure

Comments: Whilst agreeing with this principle it is difficult to see what wording can be used to reflect what will actually happen in practice. As suggested, a code of practice between that sector and trading standards should be considered.

Q5 Do you agree with the proposals relating to baby products (i.e. that items covered by covered by BS EN1888 (wheeled child conveyances) and BS EN1466 (carry cots and stands) are removed from scope, with padded playpens treated in the same way as mattresses)?

☒ Yes ☐ No ☐ Not sure

Comments: Although we do not operate in this sector we see this as a positive step forward.

Q6 Do you agree with the proposed treatment of second-hand products (i.e. that they would be required to bear the relevant permanent label)?

☐ Yes ☒ No ☐ Not sure

Comments: This proposal needs greater clarification to recognise the re-upholstery sector. The original permanent label will always be removed during this process and that needs to be recognised in the regulations. Outside of that sector we would fully endorse the need for the permanent label to remain in situ.

Questions on testing

Q7 Do you agree to removing the Filling 1 option?

☒ Yes ☐ No ☐ Not sure

Comments: Simplifies the process and removes a layer of unnecessary testing and cost that were part of the previous consultation.

Q8 Do you agree that the specifications set out in the draft Regulations for the test foam and fibre wrap are sufficient to achieve the objectives of the Regulations?

☐ Yes ☒ No ☐ Not sure

Comments: As the fibre wrap will be the first filling to be exposed to the flame if the cover has split then it is important that the specification is agreed and repeatable within the testing sector. Foam should be the current Schedule 1 Part 1.

Q9a Do you agree that the regulations should provide a protective cover option?

☐ Yes ☒ No ☐ Not sure

Comments: We do not feel this question goes as far as it should as it fails to ask opinion on the introduction of the non-protective category. We agree that the cover should provide the primary resistance to fire and so the term 'protective' in that

context is relevant. Since the regulations were first introduced in 1988 we have worked with a pass/fail regime. The new match test will now have 3 options – Fail, pass protective and pass non-protective. FIRA advise that there will be covers that currently pass that will become non-protective and in those cases this proposal adds cost to the product as well as increasing the use of chemical intervention to achieve compliance.

During both the 2014 and 2016 consultations, we, and most of industry have agreed with the principle of using CM foam in the match test on the basis that something that is no longer commercially available (i.e. non CM foam) should not be used in a testing regime. By moving to a CM product there has obviously been concern that with a 'safer' foam more fabrics will pass and so safety standards will be reduced – hence the proposal to introduce the non-protective category and the 40mm rule to try and counter this argument.

We therefore suggest that consideration be given to retaining the existing match test for the following reasons:

- Pass or fail – simple to understand, easier to interpret.
- Known safety standard, no fear of a new test resulting in lower standards.
- Maintains current testing cost base for both the fabric manufacturers and wholesalers along with due diligence cost for industry.
- No risk of increased chemical intervention.

Q9b If yes, do you agree with our proposed definition of protectiveness?

☐ Yes ☐ No ☒ Not sure

Comments:

The description is quite clear but a major concern would be the ability to measure down to 2mm accurately and consistently across laboratories and test houses.

Once again though it is the case that it is not the protective covers that concern us but non-protective and reinforces our belief that we need just a pass/fail in order to maintain safety standards and reduce any possible risk of increased chemical intervention.

Q10 Do you agree with the proposed requirements for components close to the cover?

☐ Yes ☒ No ☐ Not sure

Comments:

We believe this to be a poorly thought out part of the proposal and an unfortunate hang over from the 2014 consultation. We believe it to be flawed for the following reasons:

- There is on the market a lot of upholstered furniture that relies on large volumes of foam and fibre for its comfort and appearance. These naturally will dominate around the seat, arms and inside back, the area's most likely to be affected by a heat source. Because of that volume of filling there may not be any components within 40mm of the surface that will require FR compliance. *This proposal effectively says that it will be OK to use a covering fabric that is known to split and will expose the fillings to a heat source. That looks like a clear reduction in safety standards.*
- We know that some fabrics split using the current match test but as that uses non-CM foam it could be considered more severe and therefore safer than a fabric passing as non-protective over CM foam.
- We therefore believe that allowing this route to compliance, using just the 40mm rule, will be less safe than the use of back coating or interliners.
- We do suspect that in the event of a fire, once the flame has penetrated through to the fillings they, as the main fuel source, will dominate and having an FR compliant component will contribute little or nothing to the restriction of any further spread.
- These components do not have to currently be FR so industry would have a whole new raft of costs in treating, testing and stocking revised components.

It returns us to the view that the match test should only be pass/fail and a retention of the existing test regime. Compliance is achieved by prevention of a heat source reaching the fillings. This is a known and understood position and ensures safety standards are maintained.

Q11 Do you agree that there is no need for the cigarette test for covers that pass the revised match test?

☒ Yes ☐ No ☐ Not sure

Comments: But surely this is the opportunity to specify RIP cigarettes in the test? If you are going to continue with moving the match test to CM foam because that's what is used on the market then we would expect the same logic to be applied to the type of cigarette used.

For business respondents:

Q12 Which of the routes to compliance do you expect to follow for most of your products?

☒ Schedule 3 interliner ☒ Protective cover

☐ Non-protective cover + compliant components ☐ Not sure

Comments:

During re-upholstery it is not always the case that existing fillings or components will be replaced. If the customer has specified a cover that passes under the existing

regime but becomes non protective in the new then there will be no option other than to use an interliner which increases cost and chemical intervention in our sector.

This scenario adds further to the fear that the move away from just pass/fail in the match test will increase non-compliance.

Q13a What do you expect the impact of the testing proposals to be on your use of flame retardants in covers?

☒ Increase ☐ Decrease ☐ No change ☐ Not sure

Comments: We expect the new testing proposals to increase the amount of backcoating.

Q13b What do you expect the impact of the testing proposals to be on your overall use of flame retardants?

☒ Increase ☐ Decrease ☐ No change ☐ Not sure

Comments: As with Q13a we are expecting to see more interliners used which once again will lead to increasing the use of FR chemicals.

Questions on traceability and enforcement

Q14 Do you agree with the product record/technical file requirements for manufacturers and importers?

☒ Yes ☐ No ☐ Not sure

Comments:

This is a positive move but timescale for retention of the technical file needs to be clearer. It may be better to say that the file needs to be retained for a period of 10 years following the discontinuation of manufacture or import of the product rather than 10 years from the date product first placed on the market. Many products in our sector have a life span greater than 10 years. The requirement should be for that file to be maintained during the life of the product and still be available for a period following its discontinuation. Will existing products need to have a file or only new products from the date of the new regulations coming into force?

We also need to have clarity that this requirement is only for products that are placed on the market. Any product that is being produced for a private customer such as re-upholstery or one off bespoke work should be exempt from this requirement.

Q15a Do you agree with the requirements for the single permanent label, and the proposal to remove the requirement for additional display labels?

☒ Yes ☐ No ☐ Not sure

Comments:

Fully agree with this but clear guidance will be needed for retailers during the transition period as customers will see some product with display labels and some without leading to confusion. It would make some sense to say all display labels can be removed from the commencement of the transition period.

Q15b What do you think is the most effective means of conveying the use of flame retardants in the cover of this product eg by text, symbol?

Comments:

Text.

Other questions on the proposals

Q16 Do you agree that a 24 month transition period is sufficient, and that the changes should be reviewed in five years?

☒ Yes ☐ No ☐ Not sure

Comments:

We understand that bigger importers do have to order well in advance and so 24 months may be tight but they know already change is coming so should be preparing now.

Q17 Do you have any other comments on the proposals or draft regulations?

☒ Yes ☐ No ☐ Not sure

Comments:

- As evident in our response we are very concerned that the new match test as proposed will lead to increased cost and greater use of chemical intervention. This is determined purely by the concern that there will be many covers that currently pass that will now become non-protective. The major unknown is just how many and until we have had a couple of years testing during the transition period we will not be able to quantify this statement.
- As stated in our 2014 response we would have liked to have seen a proposal to introduce a generic label/description to be used by fabric manufactures and wholesalers to describe the level of compliance of each fabric. At the moment, each company uses their own description which leads to confusion. For example, many will describe a fabric as 'suitable for domestic upholstery' which is a description of its wearing characteristics and not its FR compliance. Such a scheme would be invaluable to the re-upholstery sector and be a significant aid to compliance. We believe it could be easily introduced during the transition period as new testing/due diligence progresses.

- We would refer you to the FIRA/BFC publication – ***Fire Safety of furniture and furnishings in the home : A Guide to the UK regulations*** - where on page 19 you will see specific guidelines for the re-upholstery sector. These guidelines are widely used in our sector and we will be seeking reassurance that their provisions are maintained going forward.

https://www.fira.co.uk/images/FIRA-Flammability-Guide-PDF-with-links.pdf

- We would have preferred to see the retention of the existing Schedule numbering. We have used these for 28 years and they are widely recognised. Are they being changed to ensure no confusion with the existing or is there some other reason?
- It's difficult to see how Part 3/10/1 - Prohibition on supply - can be applied or policed in the retail sector.
- And finally, as was clearly reported in the BIS funded report by Rhondda Cynon Taf TSA in 2015, there was a 56.9% failure rate on flammability compliance for products tested across 6 TSA regions. These proposals increase the complexity of the regulations and so risk even more non-compliance.

Questions on the Impact Assessment

Q18 Do you agree with our estimate of traceability time in the Impact Assessment – ie one-off input of 16 hours per firm and ongoing per year time of 48 hours per firm? If not can you provide additional evidence to support your answer?

☐ Yes ☐ No ☒ Not sure

Comments: As we don't believe the traceability aspect will be required in our sector we cannot comment on this.

Q19 How much do you estimate you would save per year from the removal of the cigarette test?

Amount saved:

☐ Nothing ☒ Not sure

Whilst there will be savings from not carrying out the cigarette test there must be some concern that overall testing costs will rise as protective covers now must go through 5 tests to gain compliance.

Q20 How much do you estimate you would save per year from reduced use of flame retardants?

Amount saved: Click here to enter text.

☒ Nothing ☐ Not sure

Q21 Are you aware of any further costs or benefits we have not identified in the impact assessment? Please support with any evidence you have.

☐ Yes ☒ No ☐ Not sure

Comments: Click here to enter text.

Q22 To what extent do you agree that, overall, these proposals represent a reasonable compromise – bearing in mind the information in this consultation document, feedback on the previous (2014) consultation, and other stakeholder input during the review?

☐ Strongly Agree ☐ Agree ☐ Not sure ☒ Disagree ☐ Strongly Disagree

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BEIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☒Yes ☐No

BEIS/16/11/RF

Most commentators already agree that test results can vary both in the same laboratories and between test houses. Introducing the third option could lead to an escalation of these variables.