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UK

Mining company fined £3.6 million following severe burns to two contractors. The Health and Safety Executive (HSE) stated that it found deficiencies in risk assessment, planning of works, and the provision of warnings about electrical systems which led to two electrical contractors suffering serious burns and being hospitalised over a two-and-half-year period. The company pleaded guilty to breaching Section 2(1) and two counts of breaching Section 3(1) of the Health and Safety at Work etc. Act 1974 and was fined £3.6 million and ordered to pay costs of £185,000. This high fine imposed serves as a reminder that risk assessments should be updated following an incident to ensure that all aspects of that risk (here, live electrical systems) are covered and dangerous incidents are not allowed to be repeated. A failure to do so will usually lead to large fines. The HSE issues guidance on safe working practices for "electricity at work", which is available for download, on its website.

Technology company fined £1.2 million after employee was struck by milling machine. The HSE stated that the employee was moving the 1.5 tonne machine when it fell on him and that there was not suitable and sufficient information, training or instruction provided to them on carrying out the task. It also stated that there was not an adequate risk assessment or safe system of work. The company pleaded guilty to breaching Section 2(1) of the Health & Safety at Work etc. Act 1974 and was fined £1.2million. This case highlights the importance of a full suite of health and safety arrangements and procedures for heavy machinery, particularly when moving such machinery.

Company fined following death of seven-year-old child who accessed a construction site. In a case that highlights the importance of ensuring effective controls and arrangements to prevent unauthorised access to potentially dangerous sites, the HSE stated that the child became trapped in a drainage pipe on a construction site and suffocated. It found that the fencing around the construction site was insufficient to stop unauthorised access and that planning, management and monitoring of the site and its perimeter were poor. The company pleaded guilty to breaching regulation 13(4)(b) of the Construction (Design and Management) Regulations 2015 and Section 3(1) of the Health & Safety at Work etc. Act 1974. It was fined £600,000.

Follow-up report on the Northern Ireland Protocol published, with potential implications for regulatory compliance of products sold across borders. Published by the House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland (Protocol), the follow-up report follows an earlier introductory report from 2021. It includes an analysis of the economic impact of the Protocol and possible mitigations and solutions. Possible solutions listed include: reversing the default position for goods moving from Great Britain to Northern Ireland i.e. that they are considered at risk of moving into the EU single market unless deemed otherwise; establishing the permanent continuation of the grace periods and derogations for goods; and the introduction of a UK-EU SPS/veterinary agreement. The report concludes that a reset is needed, as issues arising under the Protocol have deteriorated further than they had when the introductory report was published, and calls for renewed commitment from all stakeholders to rebuild trust and engage in effective relationship-building.

A trial judge is not bound by any parties' case hypothesis when summing up. The Court of Appeal determined that a judge is required to sum up and allow the jury to consider appropriate counts of offences based on all of the evidence, even where the prosecution did not seek every count. In the case, the trial judge had required the prosecution to add a charge of manslaughter, as an alternative to murder, on the basis that such a change was available. The judge also included this in his summing up. While this case was a 'general crime' case, the principle it has potential implications for corporate crime. For example, a judge might require the prosecution to add alternative charges under health and safety laws or gross negligence manslaughter to the indictment in a trial for corporate manslaughter, where the evidence indicates that it would be appropriate to do so. In such cases, the judge may sum up that such a charge is available to the jury.

Improperly granted special measures for video evidence did not render conviction unsafe. The Court of Appeal determined that although a trial judge should not have allowed video evidence given under the Youth Justice and Criminal Evidence Act 1999 because the witness was over the age of 18 years, this did not impact upon the safety of the conviction. This case demonstrates that procedural failings will not necessarily invalidate proceedings and, instead, the effect of the procedural failing should be considered in terms of whether it renders a conviction unsafe. This principle is likely to be equally applicable to cases relating to corporate crime.

Gambling company fined following social responsibility and anti-money laundering failures. The Gambling Commission has issued its largest fine to date – £17 million – and has added further licence conditions, against one of Britain's largest gambling companies. The Gambling Commission states that its investigation revealed serious failures including failing to conduct an adequate risk assessment of the risks of the company's online business being used for money laundering and terrorist financing, and allowing customers to deposit and bet hundreds of thousands of pounds without source of funds checks.

Contractor found liable for the cost of removing unsafe cladding. The High Court determined that a building contractor must pay approximately £8 million in damages towards the cost of investigating, removing and replacing the unsafe cladding in respect of four residential tower blocks on which it carried out the installation works. Each of the buildings was in excess of 18 metres in height and contained residential units. The Court ruled that the cladding was defectively installed and had insufficient provision of fire stopping cavities and barriers which meant that it did not comply with the Building Regulations. The case creates a precedent that is likely to be used in similar high-profile claims relating to combustible cladding in the years to come, following the Grenfell Tower disaster and subsequent changes to the law (such as the enactment of the Building Safety Act 2022).

Law Commission to conduct review of criminal appeals. In a recently published terms of reference document, the Law Commission indicated it would consider the need for reform with a view to ensuring that the courts have powers to enable the effective, efficient and appropriate resolution of appeals. The review will consider (but is not limited to) appeals against convictions and sentences in the Court of Appeal (Criminal Division) (CACD), as well as appeals against convictions and sentences in courts other than the CACD, in the Magistrates' Court and in the Crown Court. It will also consider questions around referral of matters from the Criminal Cases Review Commission, evidence and records of proceedings, and consolidation of statutory provisions.

Office for Product Safety and Standards updates guidance documents. A number of updates have recently been made to government guidance documents on product safety. Guidance for businesses on a variety of pieces of legislation have been updated to take account of the announcement in June this year on changes to make it simpler to apply the new UKCA marking. Examples of this are the Supply of Machinery (Safety) Regulations 2008, the Electrical Equipment (Safety) Regulations 2016, the Measuring Instruments Regulations 2016, the Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001, and the Personal Protective Equipment (Enforcement) Regulations 2018. The General Product Safety Regulations 2005 have also been updated.

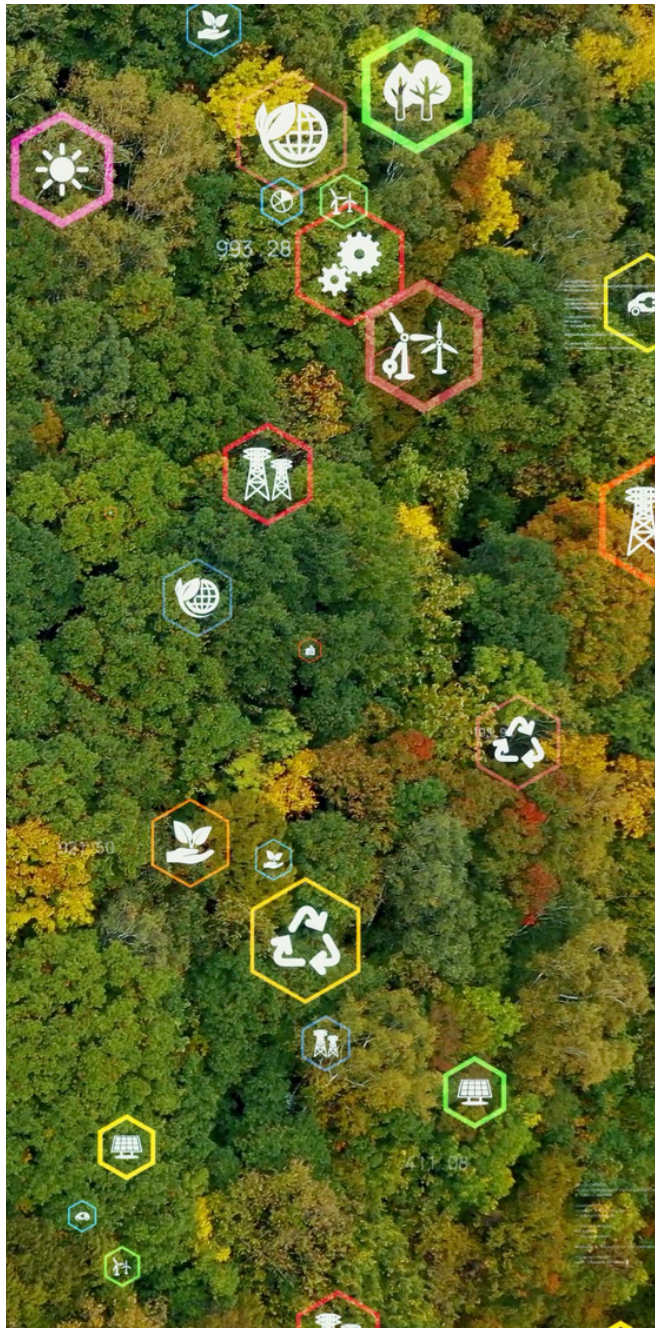
"Register of Overseas Entities" introduced in government strategy to combat economic crime. Brought in under the Economic Crime (Transparency and Enforcement) Act 2022, the new register will require anonymous foreign owners of UK property to provide their identities as part of the government's strategy to combat economic crime. It will apply retrospectively to property bought since January 1999 in England and Wales and since December 2014 in Scotland. The measures will apply to:

- Any company or similar legal entity that is governed by the law of a country or territory outside the UK (overseas entity)
- Individuals who have significant influence or control over the entity, e.g. they hold 25% or more of the shares or voting rights (beneficial owners)

If an overseas entity does not comply with the new obligations, its managing officers can face criminal sanctions, including fines of up to £500 per day or a prison sentence of up to 5 years. The Department for Business, Energy and Industrial Strategy (BEIS) has published technical guidance for registration and verification which covers circumstances in which overseas entities must register their details and those of their beneficial owners.

Advertising Standards Authority (ASA) bans "eco-friendly coffin" claims. Funeral providers Golden Leaves Ltd and JC Atkinson & Son Ltd had advertised "green", "environmentally-friendly" or "eco-friendly" funerals (that could include wooden or MDF coffins) and made statements on their websites such as "Choosing an environmentally-friendly funeral not only assists your loved ones, but also makes a positive statement of intent to help preserve the world in which we live." Both cases considered whether certain claims were misleading and could be substantiated. In the Golden Leaves Ltd case, the ASA challenged claims that coffins were "eco-friendly" and "green", and references to "green" and "environmentally-friendly" funerals. Similarly, in the JC Atkinson & Son Ltd case, LifeArt Coffins Ltd challenged claims that wooden or MDF coffins were "eco-friendly" or could protect and preserve the natural environment. Golden Leaves Ltd said the claim that its funerals and coffins were "green" should consider the funeral plan package as a whole, as it was designed to promote an environmentally conscious message. However, the ASA said consumers would understand terms like "green" in the ads as "absolute claims about the whole life cycle of the funeral" and that the evidence did not show that opting for the funeral plan would have a positive (or even net neutral) impact on the environment.

The Department for Environment, Food and Rural Affairs (DEFRA) directs Environment Agency (EA) to relax permitting requirements for coal power stations. At the end of July 2022, DEFRA published two ministerial directions: the Environmental Protection (England) Coal Fired Power Station Direction 2022 and the Environmental Protection (England) Extension of Limited Lifetime Derogation End Dates Direction 2022. The first directs the EA to temporarily relax permitting conditions for coal-fired power stations from 1 October 2022 to 31 March 2023. During this period, if a power station is directed to operate and exceeds its nitrogen oxide emission limit values, the EA will have to refrain from enforcement action unless it obtains the secretary of state's approval. The second direction allows electricity generation sites that benefit from a limited life derogation to operate until 30 September 2024. DEFRA stated that these directions were to "address energy security issues if they arise, whilst aiming to limit unnecessary pollution".



United Nations (UN) publishes guidance for businesses respecting human rights in conflict-affected contexts (Guide). The Guide is based on the United Nations Guiding Principles on Business and Human Rights (UNGPs) and urges businesses to carry out heightened human rights due diligence when operating in areas of existing or potential conflict. In such areas, businesses are at a higher risk of being found complicit in human rights abuses committed by other actors. The term "conflict-affected" areas is not given a specific definition, but is construed broadly, with the Guide saying they include (but are not limited to) areas that experience "various levels of armed conflict or widespread violence including inter-state or civil war, armed insurrections, violent extremism or other forms of organized violence". Under the updated Guide, businesses must evaluate the actual or potential adverse impacts on people and on conflicts they may exacerbate. The Guide recommends ongoing and heightened due diligence, provides information on best practice for due diligence scope, and lists considerations for determining adequate measures to mitigate human rights risks. It also touches on other standards for businesses to consider, for instance the standards of international humanitarian law, which is applicable only in armed conflicts but does not allow for any derogations. Businesses and individual staff members operating in conflict areas that fail to respect these rights and standards are at increased risk of both criminal liability and civil liability.

UN recognises human right to clean, healthy and sustainable environment. A landmark resolution has been passed by the UN General Assembly that recognises that a clean, healthy and sustainable environment is a human right. It was passed with 161 votes in favour and eight abstentions, and is likely to grow the trend of framing climate change as a human rights issue. Recent climate change litigation is increasingly aligning protection of human rights with the responsibility on governments and polluters to act on climate change. The resolution recognises that climate change and environmental damage under numerous forms (e.g. unsustainable use of natural resources, air, land and water pollution, poor management of chemicals and waste, and biodiversity loss) have a negative impact on enjoyment of all human rights. Notably, the resolution is clear that the right to a clean, healthy and sustainable environment is related to other rights and existing international law, and calls on relevant actors and stakeholders, including governments and companies, to adopt climate policies, co-operate with each other, and share good practices. It also recognises that, in order to promote this new human right, states will need to implement multilateral agreements based on and under the principles of international environmental law. Discourse before and after the text was adopted was significant – for more information on commentary, please see the UN press release.

Government consults on revised National Air Pollution Control Programme (NAPCP). DEFRA and the devolved administrations have published a consultation on the revised draft NAPCP. The NAPCP was first published in 2019 and sets out policies and measures that may be needed to limit emissions in accordance with the Emission Reduction Commitments (ERCs) set under the National Emission Ceilings Regulations 2018. The binding ERCs cover five air pollutants: fine particulate matter, sulphur oxides, nitrogen oxides, ammonia and non-methane volatile organic compounds. Emission projections from early 2021 showed a risk that the UK may not meet its ERCs in the period to 2030. The revised draft NAPCP sets out the policies and measures that the government will consider further to reduce emissions, and policies and measures that it will not consider further. The packages of measures to be considered relate to:

- Cleaner stoves, domestic combustion of solid fuel and communication on domestic burning.
- Agriculture (to reduce ammonia emissions), road transport (to reduce greenhouse gas emissions) and industry.
- Net zero and decarbonising the UK economy (power, industrial and residential).

The consultation, which closes on 4 September 2022, sets out 14 questions (general, policy-related, and technical).

New public consultation on core principles for high-quality carbon credits. A consultation was launched by the Integrity Council for the Voluntary Carbon Market (ICVCM), the independent governance body for the voluntary carbon market. The proposals seek to establish a definitive and consistent global benchmark for high-integrity carbon credits (see accompanying press release). The ICVCM is the independent governance body for the voluntary carbon market recently set up following the 2020 Taskforce on Scaling Voluntary Carbon Markets. A carbon credit is a tradable permit or certificate evidencing the certified reduction, avoidance or removal of carbon dioxide or an equivalent amount of another greenhouse gas from the atmosphere. There are three key elements to the consultation propositions: First, 10 draft core carbon principles (CCPs), designed to capture the commonly-accepted fundamental elements of high-integrity carbon credits that create real, additional and verifiable climate impact. Next, a draft assessment framework to set out proposed criteria the ICVCM will use to evaluate whether carbon credits and carbon-crediting programmes meet the CCPs. Finally, a draft assessment procedure to set out a proposed process for approving carbon-crediting programmes and credit types as CCP-eligible, how eligible carbon credits will be tagged, and how the ICVCM will continue to facilitate the continual development of the voluntary carbon market. The consultation closes on 27 September 2022.

Government publishes response to Energy Savings Opportunity Scheme (ESOS) consultation. ESOS is a compulsory energy assessment scheme for organisations in the UK meeting the qualification criteria. On 28 July 2022, the BEIS published the anticipated government response to its 2021 consultation on strengthening ESOS by improving audits and reports, and increasing the number and scope of ESOS recommendations that participants implement. The proposals to be adopted for Phase 3 (compliance year 2023) will introduce a number of improvements in reporting and implementation, including standardised templates, reducing the 10% *de minimis* exemption to up to 5%, and requiring companies to share ESOS reports with subsidiaries. Phase 4 (compliance year 2027) will refocus the ESOS scheme to cover both energy efficiency and achieving net-zero. ESOS participants could adopt the net-zero elements to ESOS audits in Phase 3 on a voluntary basis. The response also summarises feedback on two further options (which will inform developments in future phases): extending the scope of the ESOS to capture medium-sized enterprises not already part of a corporate group containing a large business, and compulsory action on ESOS audit recommendations. The relevant powers will be implemented through an amendment to the Energy Bill 2022-23.

Nuisance: High Court rules no distinction between noise from intended use and anti-social behaviour. In *Jones and others v Chapel-En-Le-Frith Parish Council,* the High Court clarified that the magistrates' court should not have distinguished between noise emanating from the "intended use" and noise from "anti-social use" of a multi-use games area (MUGA) and skate park. The claimants all lived close to the MUGA and skate park for which the council was responsible, and alleged that there was a statutory noise nuisance under 79(1) of the Environmental Protection Act 1990. The district judge drew a distinction between noise amounting to anti-social behaviour and noise that came from the intended use of the MUGA, and did not think the parish council should be held responsible for the former. Following an appeal, the High Court held that the district judge was wrong not to consider noise emanating from anti-social behaviour in its assessment of whether there was a statutory nuisance. The distinction was not relied on by the parties and was "entirely the product of [the district judge's] own creative input". The High Court clarified that there was no such distinction under the statutory regime and that "[c]onsideration should have been given to the impact upon health of all noise emanating from the MUGA and the Skate park regardless as to whether it fell to be as a result of intended use or anti-social behaviour". The residents' appeal was allowed.

Competition and Markets Authority (CMA) to investigate fashion industry greenwashing claims. ASOS, Boohoo and George at Asda will feature in a CMA investigation into potentially misleading claims that their fashion products, including clothing, footwear, and accessories are environmentally friendly. The CMA previously announced in November 2020 that wider investigation into greenwashing would take place, and published its Green Claims Code at the end of last year. In the fashion space, the CMA will look at statements and language (broad and vague terms that give the impression that a business' eco-ranges of clothing are more environmentally sustainable than they are), environmental criteria used by businesses to select products for their eco-ranges (often lower than consumers might expect), whether businesses add some items to their eco-ranges that do not actually meet their environmental criteria, adequacy of information given to consumers, and misleading statements about fabric accreditation schemes and standards. This is further evidence of the CMA's intention to clamp down on brands for unsubstantiated claims about the environmental credentials of their products. It is possible that, in addition to action by the CMA, Trading Standards departments or local authorities will bring actual or threatened enforcement action in future, for alleged greenwashing on product labels. For more information, please see this article by our consumer regulatory team. We will provide further updates as they become available.

DEFRA consults on biodiversity metric. The government has recently launched a consultation on a biodiversity metric, in line with the secretary of state's obligation under the Environment Act 2021 to consult on a "biodiversity metric" for measuring biodiversity net gain. The biodiversity metric scores different habitat types based on their relative value to wildlife, and is used to calculate and measure biodiversity losses and gains for developments under the Town and Country Planning Act 1990 and the Planning Act 2008 (Nationally Significant Infrastructure Projects). This consultation explores a number of areas, including whether greater clarity for developers and local planning authorities could be achieved, reducing the burden on local planning authorities verifying biodiversity net gain calculations by introducing accredited users, and whether changes should be made to account for individual species in the metric, as well as habitat value for priority species. The consultation closes on 27 September 2022 and DEFRA plans to publish the statutory metric later this year. No other major update is then expected before 2025.

Industry actors were invited to give information on persistent organic pollutants (POPs). As part of an ongoing review of whether certain POPs are still being manufactured and/or used in the UK, DEFRA invited industry to provide information on their use of certain POPs. The specific POPs for which statutory exemptions for permitted uses are being reviewed are decabromodiphenyl ether (decaBDE), perfluorooctanoic acid (PFOA) (its salts and PFOA-related compounds), perfluorooctane sulfonic acid, its salts and its derivatives (PFOS), and short chain chlorinated paraffins (SCCPs). This information will help DEFRA and the Stockholm Convention understand the continued need for specific exemptions.

Welsh Government (WG) publishes response to on consultation on banning single-use plastics. The response, accompanied by a summary of responses, relates to a ban that was originally planned from the first half of 2021. The consultation, which closed in October 2020, proposed that the banned plastics be the same as those banned under Article 5 of the EU Single-Use Plastic Directive, namely plastic-stemmed cotton buds, cutlery, plates, stirrers, straws, balloon sticks, expanded polystyrene food containers and cups, and oxo-degradable products. In its response, the WG states that a large majority of the 3,581 responses to the consultation were in favour of banning the suggested single-use plastic products. It will, therefore, introduce an Environmental Protection (Single-use Plastic Products) (Wales) Bill into the Senedd Cymru in 2022-23.

EA and UK Health Security Agency (UKHSA) publish report on approaching risk assessment of unintentional chemical mixtures. The report addresses the risks to both the environment and human health from unintentional mixtures of chemicals under the UK REACH chemicals regime. It summarises the current approach for risk assessment under UK REACH and provides an overview of the methods available to consider mixture risk, including the use of a mixture assessment factor (MAF). The report supports use of MAF under UK REACH as a pragmatic and precautionary way forward, if policy makers decide such an approach is necessary. While not setting out new policy at this stage, the report is indicative of further possible divergence between the EU and UK REACH regimes.

Government publishes responses to consultation on local air quality management (LAQM) policy guidance and on National Highways. The March 2022 consultation contained proposals on amending the statutory LAQM policy guidance in England. The response was made public on 18 August 2022 and was accompanied by revised statutory guidance. The LAQM guidance explains the duties on local authorities (London excluded) to improve air quality under Part IV of the Environment Act 1995. Now, DEFRA has revised the guidance to reflect the Environment Act 2021 and to clarify responsibilities. On the same day, DEFRA published the government response to its March 2022 consultation on designating National Highways as a relevant public authority under the Environment Act 2021. Government will introduce a statutory instrument to Parliament, designating National Highways as a relevant public authority, later in 2022.

DEFRA publishes consultation outcome on Storm Overflows Discharge Reduction Plan. The consultation outlined proposed targets to guide the water industry in achieving progressive reductions in the frequency of discharges from storm overflows and the impact of such discharges on ecology and public health. The proposed targets focused on eliminating impacts on ecology by 2050, reducing the frequency of discharges to bathing water to meet EA spill limits by 2035, and ensuring overflows do not discharge above an average of 10 rainfall events per year by 2050. The consultation received 21,831 responses from individuals and key stakeholder groups, including water companies, charities and consumer organisations. Government now intends to adopt the targets as originally set out in the consultation, but has also recognised significant public interest in the issue and so has planned a review point in 2027.

DEFRA announces new framework to tackle industrial emissions. Best available techniques (BAT) were adopted and applied across the EU under the Industrial Emissions Directive 2010. They aim to prevent or reduce emissions and impacts on the environment, and must be used for industrial installations with specific types of activity. Before Brexit, BAT in the UK was set by the European IPPC Bureau's BREF documents and BAT conclusions (BATC). DEFRA and the devolved governments will lead future developments of BAT and BATC, and in a recent policy paper set out the post-Brexit BAT Framework. The UK BAT Framework document states that the "UK BAT system will take between 1 to 3 years to create a set of BATC depending on the complexity of the industrial sector. The order of BATC to be reviewed will be announced in advance to give interested parties an opportunity to express views." BATC will be determined through an evidence-based approach with industry, non-governmental organisations and regulators, and will be published as statutory instruments. Once established, they will be used as a basis for permit conditions.

A response to a January 2021 consultation was also published, setting out guiding principles of UK BAT. It explains that different sectors will be scheduled into "tranches", with the first beginning in summer 2022 to cover ferrous metal processing, textiles, and waste gas treatment in the chemicals industry. Government anticipates that BATC for these industry sectors will be published in the second half of 2023. The second tranche of industry groups will begin in 2023 and cover ceramics manufacturing, surface treatment of metals and plastics, large volume inorganic chemicals, slaughterhouses and animal by-products, smitheries and foundries.

Climate change agreements (CCAs): tribunal cuts EA's financial penalty for company's late filing. A judgment in Taylor Engineering and Plastics Limited v Environment Agency, given in May 2022, has recently been made public. Climate change levies (CCLs) are carbon taxes adding roughly 15% to the energy bills of businesses and public organisations. By entering a CCA, certain organisations can receive a discount on the main CCL rate provided they meet targets for reducing CO2 emissions or improving energy efficiency. CCAs are voluntary and are made between sector associations, their individuals members and the EA (as the CCA administrator). They require certain reporting requirements. In this case, the claimant company (Taylor) had received a financial penalty from the EA for failing to report progress against its CCA target, which was calculated by the EA following Regulation 15(2) of the CCA (Administration) Regulations 2012. Taylor admitted that the CCA report was submitted late, but cited this was unintentional and pointed to certain justifications (eg: retirement of the previous company secretary, and the email system filtering out reminders as spam) and highlighted its good record of reporting and making timely payments, and new systems in place to prevent issues in the future. Taylor appealed the EA's penalty to the First-tier Tribunal (General Regulatory Chamber), which reduced the financial penalty to £750 from £2,719 and made three findings: First, the EA had not considered Taylor's good reporting history and the company showed an appreciation of its own six-week lateness. Next, Taylor did not deliberately intend to breach the CCA Regulations (rather it was negligent, which carries lower culpability than reckless or deliberate acts). Finally, the EA's penalty was disproportionate given Taylor's reporting history, acknowledgement of culpability and the fact that Taylor took immediate steps to rectify the error.

EU

European Commission publishes draft microplastics restriction. The European Commission published its draft proposal to restrict intentionally added microplastics. The draft regulation amends Annex XVII (restrictions) of the REACH Regulation 1907/2006, by adding a new restriction on synthetic polymer microparticles. This initiative is part of the "Plastics Package" that the European Commission included in its 2022 Work Programme as a priority proposal (please see Sustainability Outlook October 2021). The proposal defines synthetic polymer microparticles as polymers that are solid and that either are contained in particles and constitute at least 1% by weight of those particles, or build a continuous surface coating on particles, where at least 1% by weight of those particles fulfil certain conditions (e.g. all dimensions of the particles are equal to or less than 5mm). The restriction would apply to the placing of the market of synthetic polymer microparticles on their own or, where they are present to confer a sought-after characteristic, on mixtures in a concentration equal or greater than 0.01% by weight. Where concentration of the microplastics cannot be determined by analytical methods, only particles above certain thresholds will be taken into account. The restriction does not apply, amongst other things, to the placing on the market of synthetic polymers for use at industrial sites, or in medicinal and veterinary medicinal products, EU fertilising products, food additives, and in vitro diagnostic devices. The restriction would apply to synthetic polymer microparticles in certain uses, such as cosmetics (encapsulation of fragrances, "rinse-off products", and lip products unless they contain microbeads), detergents (unless they contain microbeads), fertilizing products outside the scope of the Regulation 2019/1009, plant protection products and biocidal products, as well as granular infill for use on synthetic sports surfaces. The date of application of the restriction varies from 24 months to eight years after the entry into force of the regulation). The proposal also provides information obligations for certain uses. Member states' experts will discuss the proposal in the REACH Committee on 23 September. According to the Work Plan, it is expected that member states will vote on the restriction in December 2022. If the committee issues a favourable opinion on the draft, there will be a scrutiny period for the co-legislators to object to the draft. As a different initiative, the European Commission also plans to take measures to reduce the release of (so-called unintentional) microplastics in the environment (please see frESH Law Horizons February 2022).

European Commission formally requests standards for plastic recycling and recycled plastics. The European Commission adopted an Implementing Decision on a standardisation request to the European Committee for Standardisation (CEN) and to the European Committee for Electrotechnical Standardisation (CENELEC) as regards plastics recycling and recycled plastics in support of the European Strategy for Plastics in a Circular Economy. The requested standardisation work focuses on the recyclability and design-for-recycling of plastic products; the characterisation and classification of the quality of sorted plastics waste; and the characterisation and classification of the quality of recycled plastic materials. The request provides a list of 10 new European standards and European standardisation deliverables to be drafted (e.g. design for-recycling guidelines for polyolefin plastics packaging, PET beverage bottles and trays, PS dairy packaging and EPS packaging), as well as a list of 11 existing standards to be revised. Terms such as "recyclable" plastic packaging or other product and "design-for-recycling" of a plastic product should also be defined. This decision was first announced in the Commission's 2022 Annual Union work programme for European standardisation (please see Sustainability Outlook February 2022). The draft request was already made available earlier this year (please see frESH Law Horizons February 2022). CEN and CENELEC must report annually to the European Commission on the execution of the request, and the deadline for the adoption of the European standards and European standardisation deliverables in 2 August 2025 (36 months after the notification). The outcome of this request may be result in input for later harmonised standards.

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