

US Clients  
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# **The cosmetics directive and REACH: The animal testing conundrum**

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# Background

- Reform of Directive 76/768
- Carries forward all the key elements of the Directive
- Will replace Cosmetics Directive and all its amendments
- Will be a regulation, not a Directive
- Consolidation of existing Annexes
- Still embryonic at this stage

## The Animal Testing Problem (1)

- REACH requires animal testing for chemicals
- Cosmetics ingredients are chemicals
- ∴ REACH requires animal testing for cosmetics ingredients
- But the Cosmetics Directive prohibits animal testing of cosmetics ingredients “for the purposes of this Directive”

## The Animal Testing Problem (2)

- The irresistible force meets the immovable object?
- Is testing for REACH testing “for the purposes of this Directive” (i.e. the Cosmetics Directive)?
- European Council vs. French government:
- Effectively decided that tests conducted for REACH were tests “for the purposes of this Directive” (i.e. the Cosmetics Directive)
  - ❖ The Advocate General’s opinion is not legally binding itself but is currently viewed by Brussels bureaucrats as the highest opinion available on the issue.
  - ❖ If it stands – after 2009 potentially no notifiable new chemical can be used in cosmetics
  - ❖ If it stands – and the REACH text remains in its current form in this respect - any chemical tested on animals for REACH [or any other legislative purpose anywhere in the world] after 2009/2013 will potentially be banned from cosmetics.

## What now?

- Where does this leave manufacturers/importers of cosmetics ingredients?
  - ❖ In limbo!
  - ❖ Await challenge to decision
- Questions?