



Downstream Users of Chemicals Co-ordination group

## DUCC comments on the public consultation on microplastic restriction – 17 September 2019

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In the framework of the Annex XV restriction on microplastics, DUCC supports a definition of microplastics which covers plastic materials contributing to aquatic litter and the potential associated risks, which relate mainly to physical effects in aquatic life forms based on today's scientific knowledge. This would ensure that a potential REACH restriction effectively addresses the issue at stake. DUCC would like to comment on the following main issues: definition and labelling and reporting obligation.

### Definition

The current ECHA working definition for microplastics goes well beyond the issue of aquatic litter and establishes a link between 'microplastics' and 'solid polymer particles'. This link is based on the assumption that all "solid polymer-containing particles below 5 mm" are (micro)plastics due to their supposed persistency.

The implementation of a REACH restriction based on the definition currently proposed in the draft Annex XV dossier would therefore create important challenges and would be problematic for both economic operators and enforcement authorities.

The proposed draft restriction considers that all solid polymer particles below 5 mm are (micro)plastics due to their supposed persistency. More precisely, the Annex XV restriction report states that «The intent of the proposed restriction is not to regulate the use of polymers generally, but only where they meet the specific conditions that identify them as being microplastics».

However, although all plastics are polymers, not all polymers are plastics (including microplastics). The ECHA Annex XV report does not provide a clear evidence supporting the above assumption, i.e. that all solid polymers are automatically (micro)plastics).

In addition, accepted international definition for "plastic" (ISO 472) and the upcoming definition for "microplastics" under finalization by ISO/TC 61/SC 14/WG 4 "Solid plastic particles insoluble in water with any dimension between 1 µm and 1 000 µm (= 1 mm)" have not been considered in the proposed definition<sup>1</sup>. As a result, the proposed restriction has the potential to target hundreds of polymers and substances that are not linked with 'plastic'<sup>1</sup>.

### Ambiguous substance identity

The draft restriction dossier prepared by ECHA "shall include the identity of the substance and the restriction proposed" (Annex XV Point 3 REACH). As a result, most of the current restrictions under REACH Annex XVII have unique chemical identifiers (EC or CAS numbers); in few cases, REACH restrictions target group of substances belonging to a specific chemical category that can

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<sup>1</sup> The ISO working group ISO/TC 61/SC 14/WG 4 is finalizing a Technical Report on the "Characterization of plastics leaked into the environment, including microplastics". This report is expected to be published in the course of 2019 and contains the current definition of microplastics: "Solid plastic particles insoluble in water with any dimension between 1 µm and 1 000 µm (= 1 mm)" and of large microplastic "solid plastic particle insoluble in water with any dimension between 1 mm and 5 mm". For additional information see <https://www.iso.org/committee/6578018.html>



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be clearly identified by a marker (e.g. Mercury compounds) or by a specific hazardous classification (Entry 28 of Annex XVII). The Annex XV report is based on the REACH definition of polymer (Art. 3 (5)); however, most of the dossier data and conclusions regarding substance identification are based on the term 'microplastics'. In DUCG's view, this approach creates confusion and ambiguity on the scope of the dossier and does not provide the required legal certainty in the identification of the targeted substances.

### Communication and reporting obligations

The proposed restriction introduces communication and reporting obligations for substances and materials that are derogated since they no longer fulfil the meaning of microplastics (such as soluble or film forming polymers) or are somewhat contained in a way that prevents their release. However, this requirement will result in a significant burden for economic operators that will have to report and potentially label a very high number of products, in particular for polymers derogated by Points 4(a) and 5. The obligation would apply to manufactures and downstream users at all levels of the supply chain, i.e. throughout the supply chain from manufacturer to formulator, which could result in a great deal of 'double counting'. More importantly, this will also translate into the market stigmatization of products "*supposed to contain microplastics*", which are subject to obligations as derogated uses, as opposed to those polymers that are considered biodegradable and therefore exempted from the scope. Given the nature of the polymers contained in derogations 4(a) and 5, DUCG considers that it would increase the effectiveness and proportionality of the proposal to include them as exempted from the scope and not derogated. This would also be aligned with the prioritization principle outlined below by EU Commission Group of Scientific Advisors on Microplastic Pollution.<sup>2</sup>

### About DUCG

DUCG is a joint platform of **11 European associations** whose member companies use chemicals to **formulate mixtures** (as finished or intermediary products) for professional and industrial users, as well as for consumers.

DUCG focuses on the downstream users' needs, rights, duties and specificities under **REACH** and **CLP**.

DUCG's membership represents several important industry sectors, ranging from cosmetics and detergents to aerosols, paints, inks, toners, pressroom chemicals, adhesives and sealants, construction chemicals, fragrances, lubricants and chemical distributors industries. Altogether, their membership comprises more than **9.000 companies** across the respective sectors in Europe, the vast majority being SMEs. The calculated turnover of these companies is more than **215 billion euros** in Europe.

**For more information on DUCG:** [www.ducc.eu](http://www.ducc.eu) - Jan Robinson – DUCG Chair, [j.robinson@cepe.org](mailto:j.robinson@cepe.org)  
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DUCG's public ID number in the **Transparency Register of the European Commission** is: **70941697936-72**

<sup>2</sup> The recent Scientific Opinion 6/2019 of the European Commission's Group of Chief Scientific Advisors (30 April 2019) on Microplastic Pollution indicates that materials which pose the highest potential risks should be targeted first (e.g. high volume, high persistency, high release).