

Downstream Users of Chemicals Co-ordination group

Revision of EU Regulation No 1272/2008 on hazard classification, labelling and packaging of chemicals (the CLP Regulation) DUCC input to consultation on Inception Impact Assessment

The Downstream Users of Chemicals Co-ordination group (DUCC) supports the objectives of the Chemicals Strategy for Sustainability (CSS) aiming at achieving a higher level of protection of citizens and the environment against hazardous chemicals and encouraging innovation for the development of safe and sustainable alternatives. However, DUCC notes that the removal of hazardous chemicals from the EU market simply based on hazard and not on risk could be very detrimental for the EU Society and be against some objectives of the Green Deal as could result in the use of more raw materials, energy, water, and higher greenhouse gas emissions.

DUCC urges the European Commission not to rush decision-making processes for CLP (or any other legislation) in order to meet unrealistic deadlines, set in the CSS, but to ensure that these are conducted properly in line with the principles of Better Regulation¹. Realistic transition periods to implement any changes to CLP should be introduced and, as DUs rely to an extent on information from upstream suppliers, consideration should be given to sequential application deadlines and/or grace periods to sell stocks. That would ensure sustainable clearance of available stocks without unnecessary waste and/or product re-work and unnecessary transport of goods. DUCC also considers that potential changes of the CLP regulation should take into account consistency with international regulatory instruments and definitions.

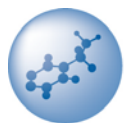
The CSS will create new links between CLP and downstream legislations. Such links should recognise the limitations of hazard identification and be relevant and proportionate for downstream sectors. Safeguards, such as exemption procedures, must be introduced both under REACH and sector-specific legislation to avoid unjustified bans of uses that are safe for consumers and the environment. Disproportionate action should be avoided for substances that are merely “suspected” of hazard properties. Regulatory links should be legally clear, also to avoid negative impact on SME’s being not aware of all regulatory changes.

Generic Risk Approaches based on CLP classifications have significant economic impacts on downstream users. Increased investment and research will simply lead to innovative and safer chemicals. It is important that all sectors have equal and fair access to scientifically valid and regulatory-accepted tools for innovation that fully respect provisions and restrictions on the use of animal tests.

DUCC welcomes the opportunity to participate in public consultation (PCo) on Inception Impact Assessment for CLP and wishes to share the following comments:

- **Introduction of new hazard classes (such as endocrine disruptors) and corresponding criteria**
 - o DUCC is of the opinion that the inclusion of new hazard classes should first be done under the UN Globally Harmonized System of Classification and Labelling of

¹ Commission [Communication on Better Regulation](#) published 29 April 2021



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Chemicals (GHS) framework. This approach would ensure a level playing field for the European industry at global level, as divergences from the UN GHS global standards may affect hazard communication for exported EU-manufactured chemicals.

- DUCC disagrees with the approach taken by the Commission to consider CLP as the only option to identify EDs without evaluating other potential options under the REACH regulation. REACH has already demonstrated its ability to identify and assess Endocrine Disrupting chemicals. The implementation of ED identification criteria under REACH could be done in the same way as PBTs via an Annex.
- The introduction of new classification criteria should not lead to an increase of animal testing. DUCC considers that it is paramount to make safety decisions on ingredients using state-of-the-art methodologies, taking into account all available existing toxicology data without new animal testing. It should be a priority of the Commission to establish and promote acceptance of alternative methods, including the realistic and appropriate application of *in vitro* testing methods, Weight of Evidence, and bridging principles.
- While introducing new hazard classes, it is important that the new classes are based on widely and internationally accepted definitions. We are also of the opinion that before introduction of any new definitions, such definitions need to be agreed beforehand in order to evaluate the regulatory consequences.
- There is a need to avoid over and redundant classification and labelling for one single effect resulting in two separate classifications, probably without differences in the regulatory consequences.
- We are also concerned that the additional hazard classes and pictograms would increase label complexity and could compromise hazard communication.
- **Clarification of the obligations to classify mixtures and some complex substances**
 - It is essential that chemical substances are classified and labelled using relevant, reliable, and robust scientific data, prior to this information being communicated down the supply chain. As, DUs use the information on classification and endpoint test data of chemical substances received from the supply chain to inform on the classification and labelling of the products these substances are used in, to conduct the risk assessments that determine suitable product use and ultimately to define safe storage, use and disposal requirements.
 - Any additional obligations should not diminish abilities of DUs to independently confirm what endpoint data should be made available by a supplier and to make the correlation between substance classification and any supporting data reported by a supplier.
 - There is no rationale to apply rules for classification of mixtures to substances where data exist on the substance as such.
- **Multilingual fold-out labels and introduction of tailored labelling rules where there is not enough space on packaging.**
 - DUCC welcomes the initiatives. However, DUCC would like to note that new hazard classes and classification criteria proposed for CLP will add even more content to labels and further exacerbate the need for streamlining.



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- DUCC is of the opinion that multilingual fold-out labels will be beneficial to safety by offering the possibility to improve layout and readability. It will allow a greater number of consumers/users to receive label information in their native language.
- Use of multi-lingual labels will support sustainability goals by enabling reduction in stock-keeping units, inventory, and waste.
- **Digitalisation**
 - Discussion on the use of digital communication tools should be facilitated. Digital tools could enable constant access to up-to-date information on safe and sustainable product use.
 - Broad use of digital tools will add to sustainability as it will reduce the need to change or withdraw goods that are already in the supply chain.

DUCC members are highly committed to successfully implement CLP (Regulation (EC) No 1272/2008). However, DUCC would like to spotlight that it is very important to assess the impacts of proposed changes to the hundreds of DUs (a lot of them being SMEs) operating in EU, as, taking into account the additional hazard identification, notification and the possible associated re-labelling, the monetary and administrative burden for DUs could be significant. Thus, considering the magnitude of the proposed changes and the level of ambition set in the CSS, DUCC would like to highlight the value of impact assessment and the need for the proper dialogue with all stakeholders. We also would like to point out, that actions to be taken should not only be targeted at EU industry but also involve society as whole (better education) as might require to make changes to individual behaviour in day-to-day life.

Brussels, 31 May 2021

About DUCC

DUCC 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.

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

DUCC'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, disinfectants, 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 DUCC: www.ducc.eu

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DUCC's public ID number in the **Transparency Register of the European Commission** is: **70941697936-72**