



Downstream Users of Chemicals Co-ordination group

DOWNSTREAM USERS INPUT TO REVISED CLP

As a horizontal piece of legislation, CLP has a wide-ranging impact, with any change likely to have a knock-on effect on various sectors, including but not limited to biocides, pesticides, detergents, cosmetics, toys, and medical devices. For example, CLP Self-classification of substances is being included in horizontal regulations to trigger requirements without an assessment of impacts (e.g. urban waste water treatment directive, taxonomy). Revising CLP means changing the foundation of one of the most comprehensive pieces of legislation in the world and it is important to consider sectorial implications.

Consumers and professional users buy paints, detergents, glues, inks etc., not chemicals. They purchase products made by DUCC members or articles containing products made by DUCC members. Since its creation in 2001 DUCC has acted with a united objective to contribute to the successful implementation of the REACH and CLP Regulations. DUCC raises the following points on the revised CLP text.

The New CLP Legal Text

DUCC supports:

- ❖ Exemptions for small packaging.
- ❖ Provisions for the increased use of fold out labels. Broader use of fold out labels has resulting **environmental benefits** and is **essential for SMEs and professional sectors** of DUCC to avail of the **Single Market**. They are used for example to **support users of different nationalities working in the same context or allow for safe use communication of products via online sales**.
- ❖ Efforts of the proposal to increase compliance for online sales.
- ❖ Removal of incorrect classification from the C&L inventory to ensure correct/updated information is conveyed to Downstream Users.

LABEL DESIGN/ FONT SIZE

DUCC key asks:

- ❖ **A longer and smoother transition period in this space without forcing companies to dispose of pre-printed packaging and product.**
- ❖ **The ECHA Guidance on Labelling and Packaging already provides clear recommendations for label design and font size to ensure a high level of legibility. These recommendations could be transcribed into the CLP proposal.**

The new requirements on label design will trigger updates of existing labels even when products have not changed classification, with no mechanism after the transition period, to finish stocks of products and packaging with pre-printed label elements designed in accordance with previous CLP requirements.

- The font size being proposed can result in very large text and very large labels.
- The requirement to have a white background ignores common practices (e.g. text is printed directly on coloured packaging.) It should suffice to have significant contrast between the print and the background, as per the current guidance on labelling and packaging.
- Products with several hazards or pictograms will need to drastically increase label size, increase number of re-labelling operations and reduce the number of languages. This will erode the benefits of the EU Single Market, damaging companies' agility and causing significant expenses (particularly SMEs). Fewer language options on-pack means that access to safety information in the language of some users will also be reduced.
- Multi-lingual single (non-fold-out) labels will become scarce. These labels are extremely important for clear communication in multi-lingual Member States (BE, FI, etc.) with associated societal expectations.
- For smaller packaging labels already lack space - it will be increasingly difficult to fulfil requirements.



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- For largest packaging new requirements are a minimum font of 16pt for sizes 50 - 500 liters and of 20pt for packaging of more than 500 litres. In most cases, this will mean that a label will not be able to be printed in A5 format and will instead require A4 format. This means companies will need to purchase machines for printing.
- Strict requirements on font size, without taking a holistic view of the label and packaging, will result in fold-out labels becoming obligatory in some sectors due to lack of space, or packing having to be much larger with impacts on sustainability.
- The fixing of a minimum font size by law is problematic as font-size is meaningless without considering font type. These provisions will lead to the scrapping of packaging although the classification of the product is unchanged, and the labels are understandable.

TIMELINES AND TRANSITION PERIODS

DUCC key asks:

- ❖ **Longer timeframes for updating labels due to self-classification, and for implementation of the new CLP legal texts.**

Production of mixtures — like paints, detergents and glues — is a complex process. Finished product mixtures are often made with other intermediary mixtures and formulators need all new classification information on substances, through an updated safety data sheet (SDS), before they can update safety information of a mixture. Therefore, DUCC members need transition periods to allow sufficient time for changes to be implemented to the classification and labelling of their portfolios.

- **The timeframe of 6 months for updating a label (due to self-classification) is simply impossible to meet.** The work involved to update label artwork is the same, irrespective of whether a company is dealing with a self-classification or CLH. Therefore, there is no justification for giving two sets of timelines: 6 months (self-classification) vs. 18 months (typical for CLH).
- The transition period for implementation of the new CLP legal text is now set for 18 months. This is not sufficient to take account of the chemicals value chain complexity.

MULTICOMPONENT SUBSTANCES (MOCS)

DUCC key asks:

- ❖ **Natural complex substances, now defined as multicomponent substances, to be classified based on the test data of the substance itself**

The new provisions for “multicomponent substances” will result in key Impacts on Downstream users including reclassifications, retesting, restriction of substances due to over-conservative classifications.

- Natural Complex Substances (NCSs), which are multi-constituent substances according to the new definition 7a introduced in article 2, should be considered as single substances. By nature, and definition, NCSs are complex. In some cases, they are further processed after manufacturing, but there are strict limits to the selective depletion of certain constituents. A NCS cannot be reproduced chemically by the addition of its individual components. Therefore, NCS are intrinsically a substance as such and not a mixture of constituents, that taken separately could not enable its full identification. **DUCC asks for NCS to be classified based on the test data of the substance itself.** Classification based on constituents should only happen when there is no data on the NCS.
- Recent scientific studies indicate that the effects of NCSs evaluated as a whole substance are different from the effects of each of the molecules that compose them, so as to take into account the complexity of the interactions between constituents.
- The application of the mixture rules (also for article 6.3) are not in line with the GHS provisions, chapter 1.3.2.3.2. of the UN GHS
- We would like to point out that clarification is needed for Petroleum Products (Mineral Oils) listed in Annex VI CLP with the exemption of Nota L, which regulation takes precedence.



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- Finally, we highlight that the definition of multi-constituent substance is different from the definition on the [Guidance for identification and naming of substances under REACH and CLP¹](#) under REACH and this could create confusion

GROUPING

DUCC key asks:

- ❖ **Assessment of ‘similarity’ based on a review of all available data on the substances’ physico-chemical, ecotoxicological and toxicological properties. This review must include a Weight of Evidence assessment across all relevant criteria for the hazard in question.**

To speed up harmonised classification the Commission seeks to move away from a substance-by-substance approach and proposes to classify groups of substances based on ‘similar classification’. This approach assumes that substances having a similar molecular structure ‘on paper’ behave the same way in the real life and have the same impacts on health and environment, therefore deserve a ‘similar classification’. This is an incorrect approach as structurally similar substances can have different behaviour and effects.

DUCC is concerned about the downstream consequences a non-scientific, arbitrary grouping could cause. Substances which are safely used could be heavily restricted and/or banned in consumer products (e.g., cosmetics) only because they are part of a group of substances, which is targeted for a CLH, based on the presence of a single substance that has been classified as such. A broad application of grouping for CLH would force industry and regulators to manage vastly increased numbers of substances simultaneously and the situation will likely become unmanageable.

DUCC calls for grouping to be based on sound scientific principles. The assessment of ‘similarity’ must be based on a review of all available data on the substances’ physico-chemical, ecotoxicological and toxicological properties. This review must include a Weight of Evidence assessment across all relevant criteria for the hazard in question. Such an approach will help avoid over-classifying and over-regulating substances based on ‘presumed’ properties.

DIGITAL LABELLING

DUCC key asks:

- ❖ **Better use of digital means as an answer to the challenge of squeezing ever more text on labels.**
- ❖ **Allow CLP P-statements and ingredients triggering classification to be moved online.**

DUCC has called for **labelling requirements that are end-user relevant**. Thus, instead, we are disappointed as we find the section on digital labelling has missed opportunities. In addition to supplemental information allowed to be provided digitally only, P-statements and ingredients triggering the classification could also be moved online. The current proposal imposes many requirements on companies and does not introduce any of the benefits of digitalisation. The use of digital means to communicate some (non-mandatory) CLP information is an obvious answer to the current challenge of squeezing ever-increasing amounts of regulatory-related text onto current physical labels with limited space.

RUSHED HARMONISED CLASSIFICATION– IMPACT ON DOWNSTREAM USERS

DUCC key asks:

- ❖ **More resources at RAC level to assess new data.**
- ❖ **Balance between adequate proof and speed.**

¹ Multi-constituent substance is a substance consisting of several main constituents present at concentrations generally $\geq 10\%$ and $< 80\%$ (w/w).



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Rushed evaluation timings for substances that lead to rushed harmonised classifications, this means that the burden of proof for harmonized classifications will be lowered. DUCC members reformulate mixtures to switch from a chemical that is classified to another. Harmonized classifications set with inadequate proof will force companies to continuously reformulate, increase the frequency of re-labelling of products and lead to additional costs for manufacturers, distributors and downstream users (reformulation, re-labelling). A balance must be found between adequate proof and speed.

Adequate timing must be given for industry to have newer data on substances and the timing needed for updates. **It is important to have more resources at RAC level to assess new data.**

ADVERTISEMENTS (ARTICLE 48)

DUCC key asks:

- ❖ **More proportional requirements for advertising. A statement such as ‘Always read the label and product information before use’ is more relevant to consumers than a list of hazard elements.**

DUCC questions the proportionality of the requirements on advertising.

In our current interpretation the new text of Article 48 means that label elements will need to be communicated in TV/radio advertisements of products or on leaflets for supermarkets. The requirement has also been extended to professional situations.

This information is more relevant in a situation where the customer can make an immediate purchase without seeing the product. Extending the requirement to such a wide array of circumstances adds a lot of burden to companies and will not result in benefits to the end user, who has other means to read the label of a product (i.e. in the shop or on the website at purchase).

Instead of providing the hazard communication elements currently laid out in Article 48 and that are not well-understood by consumers, we suggest providing a statement such as ‘Always read the label and product information before use’ as required in Regulation (EU) No 528/2012.

REFILL CHEMICALS AND CHEMICALS SOLD IN BULK

DUCC key asks:

- ❖ **The legislative proposal should not exclude any refill sales model.**

The new requirements for refill stations ban the sale of substances or mixtures meeting a list of hazard criteria. DUCC questions the suitability/ legal remit to de facto include restrictions in the CLP-regulation. The revised CLP regulation should take into account that refill chemicals and bulk chemicals set-ups differ vastly within the industry (different refill station models, small stores with staff operating, retailers etc).

C&L INVENTORY

DUCC key asks:

- ❖ **Consider CBI risks to formulators in identification of notifiers in the public inventory**
- ❖ **Set up reasons for diverging notifications as a tick-box exercise.**

DUs have to use the classification of their suppliers based on the SDS. The inventory can be useful in challenging or comparing supplier classification, especially for R&D purposes, before using a new substance. Shortcomings arise when there are divergences in classification from different suppliers. It can thus be hard for a DU to identify the correct classification.

- **Identification of notifiers in the public inventory, can make the technical know-how of formulators visible to their competitors – this presents a concern for DUCC.**
- Including the **reasons for diverging notifications** would indeed be nice to have as it would challenge those suppliers diverging from the majority. **DUCC proposes to set this up as a tick-box exercise so it will not be overly time-consuming for companies.**