

A.I.S.E. KEY PRIORITIES ON DETERGENTS REGULATION REVISION

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With its entry into force in October 2005, the Detergents Regulation (EC) No 648/2004 is one of the oldest legislations regulating chemicals across the EU.

As the 'Fitness Check of the most relevant chemicals legislation (excluding REACH¹)' concludes, the Detergents Regulation is fit for purpose and has achieved its goals to a large extent : ensuring the free movement of detergents and surfactants for detergents in the internal market while, at the same time, providing a high degree of protection of the environment and of human health. However, the Chemicals Strategy for Sustainability entails the revision of several major chemicals regulations such as REACH and CLP², alongside of which, sectorial regulations like the Detergents Regulation are also being revised.

A.I.S.E. supports the objectives of the revision of the Detergents Regulation: improving the coherence and simplifying the regulation, which was adopted before REACH, CLP and BPR³ entered into force, removing duplications with aforementioned regulations, and keeping pace with technological developments. However, A.I.S.E. is alarmed by a number of provisions in the revision proposal and our priorities are as follows:

1) Digital Product Passport

While the legislative process for Ecodesign for Sustainable Products Regulation is still underway, the proposal to revise the Detergents Regulation mandates for the manufacturer to create a digital product passport for each detergent placed on the market, which will be identified by a unique product identifier, linked to an individual batch of production.

Although absent from the Impact Assessment, this lately-added proposal in the revision of the Detergents Regulation will bring along a massive amount of new administrative tasks, which will translate in substantial costs, especially for SMEs.

Furthermore, the requirements at 'batch' level is not workable for the industry for several reasons :

- The definition and dimension of a 'batch' differs between a multi-national and an SME – exceeding more than 100 000 batches per year for instance.
- The administrative burden generated: a new digital product passport needs to be created for each batch, which means essentially that the same information will be uploaded on the central registry continuously.
- The economic burden: additional costs will be generated such as printing of the data carrier, production lines modified to affix the data carrier, storing all the digital product passports generated for a period of 10 years etc.

¹ Regulation (EC) 1907/2006 on Registration, Evaluation, Authorisation and Restriction of Chemicals.

² Regulation (EC) 1272/2008 on Classification, Labelling and Packaging.

³ Regulation (EU) 528/2012 on biocidal products.

A.I.S.E. cautions that the digital product passport – introduced in the Detergents Regulation Revision Proposal, at batch level – will impose an unbearable administrative and economic burden, without improving the level playing field established for market surveillance of EU-manufactured and imported detergents and surfactants.

2) Microbial-based cleaning products

The new requirements on detergents containing micro-organisms are unduly conservative, inflexible and contain contradictions.

EFSA's QPS⁴ list is not suited to regulate micro-organisms used in detergents. Being on the QPS list is not even a mandatory requirement for a micro-organism to be used in the food and feed industry, but rather just a starting point for further evaluation by EFSA. Micro-organisms that are not on the QPS list can still be assessed for safety and used in food or feed, but for detergents no such possibility would exist until a formal review/revision of the requirements was subsequently carried out by the Commission. It is not considered proportionate to have more restrictive rules for detergents than for food, which is ingested directly. On the other hand, if the QPS listing was obligatory then it is unjustified to require detergents containing micro-organisms to be labelled with a warning that the product is not to be used on surfaces in contact with food.

For micro-organisms used in spray format detergents there is a requirement to pass a vertebrate animal test for acute inhalation toxicity, which would entail the sacrifice of typically 30 animals per test. The reason for this requirement is unclear as it is highly unlikely that any QPS/Risk Group 1 microorganism would cause significant acute toxicity (morbidity/mortality) by inhalation at relevant concentrations. This requirement undermines the commitment made in Directive 2010/63/EU on the protection of animals used for scientific purposes, and is not necessary as alternative methods exist for determination of safety (e.g. read-across from historical data, in vitro tests with human cell lines or weight of evidence, particularly taking into account the mandatory Risk Group 1/QPS status). Furthermore, the testing requirements specified in Annex II are considered excessively onerous, particularly for SMEs.

Limiting the micro-organisms that may be used in detergents risks hampering or blocking innovation, and ignores both the fact that detergents containing micro-organisms are already covered by the Detergents Regulation and other legislation, such as the General Product Safety Directive, and the framework developed by industry to allow for appropriate risk management of microbial ingredients. The proposal exempts detergents placed on the market for research and development purposes from the conditions prescribed in Annex II point 1, but the only mechanism available to allow commercial use of new (strains of) micro-organisms is via the review clause in Article 32 and/or delegated acts.

A.I.S.E. calls on supporting rather than preventing innovation in this emerging product category.

⁴ List of microorganisms with Qualified Presumption of Safety status, delivered by The European Food Safety Authority.

3) Transition period

The regulatory landscape for detergents is currently going through important changes : new regulatory requirements arising from CLP, the Cosmetics Regulation, the proposal on packaging and packaging waste regulation, and the revision of the Detergents Regulation. The transition period in the Commission proposal does not allow for the industry to be compliant in time with the numerous changes triggered. As a result, this would create scrappage, product-rework/relabel and unnecessary transport of goods which contradicts the objectives of the Green Deal. It is critical to grant sufficient time for the industry to sustainably exhaust their stocks.

Past experiences, such as the implementation of the Annex VIII to CLP, showed that sufficient time needs to be allocated to the development of IT infrastructures. Likewise for the digital product passport implementing act, the start of transitional periods for the implementation of the revised Detergents Regulation should commence only following the completion of the Commission's technical legislative obligations.

4) Digital labelling

A.I.S.E. supports improving the clarity and readability of product labels by removing overlaps between legislations, simplifying label content and making effective use of digital labelling.

A digital labelling solution would compensate for limited space and allow for frequent regulatory updates, improving overall efficiency without the need to increase the size of the packaging.

In 2021, 474 million people in Europe (86% of the population) were subscribed to mobile services, and this number is expected to continue to grow in coming years. The rapid development and use of QR codes during the COVID-19 pandemic also mainstreamed their use, reflecting a growing interest in seeking information digitally.

A.I.S.E. recommends that the same possibilities for digitalisation of labelling be applied for pre-packaged products as for refill sales, and/or that detergents may be labelled more clearly using pictograms/icons in place of text.

5) CE marking

The CE marking was not part of the policy options developed in the Impact Assessment. However, its late introduction in the revision package is not welcome for reasons beyond procedural.

A.I.S.E. believes that the CE marking proposed by the Commission will not be a reliable indicator of conformity of the detergent bearing it with the Detergents Regulation. As fraudulent CE markings are not possible to prevent, the effectiveness of the CE marking is highly questionable, with consequences however certain : this will be yet another new administrative burden that may ultimately discredit the industry because of counterfeited CE markings that cannot be rid of.

