REVISION OF REGULATION (EC) 1272/2008

A.I.S.E. Position Paper on Legislative Proposal

Brussels, 28 March 2023

A.I.S.E. supports the objectives of the CLP revision: ensuring a high level of protection of human health and the environment as well as the free movement of chemicals, while enhancing competitiveness and innovation. While some of the proposed amendments are in keeping with the objectives of CLP, A.I.S.E wishes to raise some concerns with certain provisions in the revision proposal :

1) Label formatting rules and label design

The CLP proposal imposes label formatting rules that will have a significant negative impact for the entire detergents and cleaning products industry, likely representing a huge logistical and financial challenge for the sector. The new formatting rules, in particular the increase in font size (to 8 points) could increase the size of current labels to almost double, requiring larger packs, in conflict with Green Deal objectives, and severely hamper the industry's compaction efforts deployed over the last 20 years which achieved significant sustainability results.

The ECHA Guidance on Labelling and Packaging already provides clear recommendations for formatting rules, covering all parameters that contribute together to the label readability. Rather than imposing a single colour for the label background, or a minimum font size, it would be more pertinent to ensure a sufficient contrast between the text and the background. This Guidance is being followed and used by industry, therefore, prescribing strict rules in the basic act is not necessary.

2) Use of fold-out labels

Fold-out labels have important benefits, not only for packages the shape, form or size of which do not support ordinary labels, but also to enable free movement of goods in the Single Market and to allow more users to receive safety information in their own language. Fold-out labels are crucial for SMEs, for the professional sector and for placing on the market in multiple Member States, in particular those with low population or linguistic variation. A.I.S.E. therefore welcomes the Commission's intention to give suppliers more flexibility by providing for a broader use of fold-out labels, but notes that the aforementioned font size and formatting requirements will make the use of fold-out labels both more necessary and more difficult.

3) Transition periods for the update of labels

The CLP revision proposal differentiates the labels' updates based on the reason for the update. It is critical to grant sufficient time for all actors of the supply chain to update their labels, and to sustainably exhaust their stocks. By definition, downstream users are in the middle of the supply chain and depend on their suppliers as regards to their SDS updates. Therefore, the proposed 6 month transition period is impossible for manufacturers to meet and would create scrappage, product-rework/relabel and unnecessary transport of goods which contradicts the objectives of the Green Deal. There is no justification for double-standards and the transition period for label updates should be aligned with the 18 months typically provided for harmonised classifications.

4) Advertisement

The new requirements for advertisement require any advertisement or online sales offer to provide the hazard pictogram, the signal word, the hazard class and the hazard statements. If strictly interpreted , the new requirements for advertisement will apply to television, radio, social media and printed advertisements inter alia. The exhaustive nature of this change will be difficult to apply to some forms of advertisement, and it appears to go beyond the scope of CLP. These requirements are disproportionate and will not address the fundamental challenge of poor understanding of hazard elements by consumers, likely leading to mixed results. The current regulation ensures sufficient information is available at the point of sale. Advertisement is more appropriately covered by other legislation and digital labels will provide consumers with additional information.

5) Refill sales

The legislative proposal should be refined to take account of different refill sale models and set-ups, differing from one operator to another (different refill station models, small stores with staff personnel operating the refill, retailers … etc.). The legislative proposal should not exclude any refill sales model.

6) Digital label elements

A.I.S.E. welcomes the introduction of digital label elements in CLP and supports the ability to incrementally amend the list of digital label elements.

It is however disappointing that only some supplemental information could be provided digitally. Additional elements such as precautionary statements could be replaced by safe use icons on the physical label which are better understood by consumers. The digital label should be viewed as the key instrument to reduce regulatory overlap as well as a platform

capable of providing many benefits, such as improving language accessibility, and readability.

7) Grouping

The concept of grouping should be science-based with transparent rules established in the regulation. Although it is commonly acknowledged that grouping of substances cannot be based on similar chemical structure only, clear rules for grouping have yet to be established. While on the one hand the industry must provide complex REACH[1] registration dossiers and often struggle to convince authorities about using data on similar substances despite applying the guidelines from ECHA's Read-Across Assessment Framework; on the other hand, authorities have used grouping to classify substances without clear justification.

8) Non-Animal Approaches

A.I.S.E. is strongly in favour of the introduction of Non-Animal Approaches (NAMs) and their use for classification purposes. The use of Non-Animal approaches in Safety Assessment is widely discussed globally in the scientific community; given the EU's objective to use animal testing as 'a last resort'[2], the revision of EU chemical legislation should fully consider these latest scientific developments to ensure a future-proof framework.

Tiered, weight of evidence (WoE) testing frameworks should be developed, evaluated and implemented in partnership with the OECD and UN GHS to support increase use of available Non-Animal Approaches for classification purposes and ensure animal testing is always a last resort. The key to increasing use of Non-Animal Approaches for classification purposes will be an accelerated, fit for purpose approach to validation to ensure that the replacement approach is equally protective and we welcome ECVAM's recent proposal to lead OECD efforts to evolve validation in this direction.

A.I.S.E. salutes the recent EU Commission and ECHA commitment to develop a roadmap towards the full replacement of animal testing to allow NAM use for all industrial chemicals (EPAA 2022 Annual Conference).

9) Definition of 'placing on the market' in CLP

While the definitions of CLP are aligned with REACH, the definition of 'placing on the market' in CLP and REACH is fundamentally different from the definition in the Detergents Regulation and the Biocides Products Regulation (BPR)[3].

In CLP, to place on the market means "supplying or making available, whether in return for payment or free of charge, to a third party". As a result, a product can be placed on the market several times subsequentially before reaching the end user. This definition recurrently triggers discussions with national authorities regarding applicability dates.

This situation could be resolved if the definition of placing on the market were aligned with other product legislations such as the BPR where the concept of placing on the market is detailed as "the first making available on the market".

1: Regulation (EC) 1907/2006 on Registration, Evaluation, Authorisation and Restriction of Chemicals.
2 : Directive 2010/63/EU; Article 7.1 of Regulation (EC) 1272/2008; and Article 25 of Regulation (EC) 1907/2006.
3 : Regulation (EU) 528/2012 on biocidal products.