

DETERGENTS REGULATION

A.I.S.E. input ahead of the 2nd technical meeting

22 April 2024

A.I.S.E. welcomes the new proposal from the Presidency and is looking forward to the discussions that will take place between the Member States on the 29th of April. **As the Detergents Regulation is the main legislation for our sector, we would like to emphasize the fact that its revision should not be rushed. Sufficient time should be allocated for the appropriate discussions to take place, so that the technical topics linked to this Regulation can be properly assessed and the proper debates can occur.**

Ban on hazardous substances and biocides

Ban on hazardous substances

- Chemical safety is already addressed under **REACH** which has the necessary instruments to restrict hazardous chemicals following appropriate assessments of risk and impact. We do not need to repeat this process under the Detergents Regulation.
- **Coherence across legislations** is so critical for effective planning & accommodation of regulatory change. Industry needs clarity and coherence to manage the significant pace of current regulatory change. Creating overlaps between legislations might significantly affect the industry and **hinder competitiveness of the EU market and economy.**
- Unlike REACH restrictions, the Danish non-paper proposes a ban of substances **without any concentration threshold**, which in practice is unimplementable and unenforceable, as analytical methods of detection have their respective limits.
- The Danish non-paper makes a comparison with the generic ban in the EU Cosmetic Products Regulation (CPR). Detergents differ from cosmetics in that the latter are intended for direct application to the human body, and the CPR accordingly includes a specific safety assessment regime for human health (including a role for the Scientific Committee on Consumer Safety (SCCS), which can evaluate the safe use of substances). Detergents meanwhile are not intended for such direct human application, but are subject to chemical safety assessment of their ingredients under REACH for consumers, workers and the environment as applicable. Product rules in the Detergents Regulation apply **in addition to all horizontal chemicals management rules in REACH and CLP.**

Biocides

- **Detergents and biocides are fundamental products**, used in hygiene, cleaning and disinfection applications.
- The Biocidal Products Regulation (BPR) defines a biocide based on the “*intention of destroying, deterring, rendering harmless, preventing the action of, or otherwise exerting a controlling effect on, any harmful organism by any means other than mere physical or mechanical action*”.
- A.I.S.E. recognises that some substances can be used in both detergents and disinfectants with different functions, such as ethanol which has uses as both a biocidal active substance and as a solvent. Also, some products qualify as both detergents and biocides; this allows cleaning and disinfection to be combined in one product, which is more sustainable. Resulting potential practical implementation issues should be tackled in the



context of BPR. The upcoming **revision of BPR** provides an opportunity to resolve such issues.

For both hazardous substances & biocides:

- The proposal to **delegate some tasks to ECHA** (e.g. for ECHA to evaluate some substances as safe) is not appropriate, as ECHA has no mandate for work under the Detergents Regulation, either currently or in the legislative proposal on re-attribution of tasks to agencies. Furthermore, risk assessment already is the responsibility of economic operators under REACH, and not of ECHA.

Biodegradability

- A.I.S.E. supports the assessment of degradability requirements for substances and mixtures, other than surfactants, in detergents. However, new test methods should be developed, or current test methods should be adapted, to take into account the specificities of the newly considered ingredients.
- **Sufficient time** must be provided for research, standardisation and criteria development prior to applying regulatory requirements. Furthermore, **appropriate transition periods** for implementation should be defined once the test methods and criteria have been identified.
- A.I.S.E. welcomes the improvements included in the latest Presidency proposal but would like to propose the following precisions to the text:
 - *Article 4, point 3 (new) and Article 26, point 6:* “organic polymers” should be replaced by **“films used for soluble packaging”**, to better reflect the intent of the provision.
 - *Article 4, point 4 (new):* “any relevant organic detergent compound” should be replaced by **“any relevant organic detergent ingredient and any other relevant organic polymer.”** Polymers included in the product formulation would then be clearly covered by this paragraph, if assessed as relevant.
 - *Article 4, point 4 (new):* relevance of the newly considered ingredients/polymers should be based on a preliminary cost/benefit analysis of these substances but also on **scientific evidence** substantiating a risk to the environment.
 - *Article 4, points 3 and 4 (new):* while specific timings are indicated for the adoption of the two delegated acts, additional provisions should be foreseen to cover the **duration of the transition** periods for the industry to respect these new provisions. The transitions periods should allow the industry to retest its products and reformulate them, should they not pass the newly defined requirements. A.I.S.E. recommends foreseeing a transition period of minimum **30 months** after the adoption of each of delegated acts.
 - *Recital 9 and Annex I (title):* A.I.S.E. recommends **removing the adjectives “readily” (Recital 9) and “ultimate” (Annex I, title)** from the text to avoid any ambiguity. New criteria and test methods will need to be developed to cover the newly considered ingredients that will have to fulfil biodegradability requirements. Based on each of these ingredients, specific requirements will have to be developed. It might not be possible to use adjectives, such as the ones used above, to describe common requirement applicable to all these ingredients, as the requirements might differ for each of them.



Digital product passport (DPP)

- When generating a DPP, A.I.S.E. considers that this should be done at ‘**model level**’ and not ‘batch level’. The model definition should be based on a combination of **product name and ingredient list**. As successive batches for detergents contain identical formulations, using batch level would require tens of thousands of DPPs for the same product, with no added benefit for the consumer but a massive administrative burden. The model level, by contrast, would require changing the DPP only when the ingredients change, bringing new information to the consumer when necessary, while avoiding unreasonable burden.
- **Such proposal would however not hinder traceability** of the products, which is currently and will continue to be based on a batch. Traceability aspects remain essential for A.I.S.E, as we want to ensure that products can be properly traced, should a non-conforming product require corrective actions to be undertaken. However, traceability and DPP correspond to two different concepts. Where traceability is required to ensure product safety and corrective measures, DPP facilitates the access to product information. Implementing a DPP at a model level will not remove the obligation to identify the batch for traceability purposes.
- In addition, the parallel discussions taking place under the **Ecodesign for Sustainable Products Regulation (ESPR)** and the Detergents Regulation raise significant concerns because of business uncertainty, potential inconsistencies, non-harmonised and non-interoperable requirements.
- To provide certainty for economic operators, **the transition period for the implementation of the Digital Product Passport (DPP) should only commence once the Commission’s implementing acts under the Detergents Regulation and the ESPR determining the related and necessary technical requirements** have been adopted. These include the type of data carrier to be used, its lay-out and positioning on the artwork.
- References made to the unique product identifier (UPI) and unique operator identifier (UOI) in the text of the Detergents Regulation should refer to the same ones indicated in the Ecodesign for Sustainable Products Regulation (ESPR).
- Proposing for “*the economic operator placing a product on the market to provide a digital copy of the data carrier to distributors and online marketplaces*” (as indicated in Article 18 – point 10) brings very little added value, as the data carrier will already be present on the packaging of the product. If a product is being sold online, it will however be the responsibility of the online platform to make the mandatory product information available to the consumer and to determine how to practically make this information available.

Phosphorus content

- Restrictions on phosphorus-based substances may lead to an **adverse impact on the sustainability of the cleaning products and processes**. Concentrated products are vital for sustainable cleaning. Imposing restrictions, especially based on phosphorus content per mass of detergent, is likely to drive the industry to diluted products which are more voluminous requiring more storage space, more packaging, more transport for the same delivered performance and therefore resulting in increased greenhouse gas emissions and packaging material use.
- Product cleaning efficiency might be decreased due to lower phosphorus content (as, for example, phosphorus is used to counteract water hardness). Consumers might have to

rewash their plates and/or clothes for them to be properly cleaned, which would increase both **energy and water consumption**. This could represent an important consequence for countries already confronted by water scarcity.

- A.I.S.E. evaluates that **the current limits of phosphorus content, as proposed by the Commission and supported by their Impact Analysis, are sufficient** and that additional limits would not have a substantial impact on environmental protection, as the detergents sector is not a major contributor of phosphorus releases in the environment.

Microorganisms

- Microbial cleaning products contain probiotics enabling high cleaning performance. Their benefits include:
 - **Sustainability:** As society seeks more sustainable practices, microbial cleaners align with this trend by offering an alternative to traditional cleaning products. They have a different mode of action and break down organic matter, offering eco-friendly and effective cleaning solutions.
 - **High performance:** microbial cleaners have the ability to provide efficient cleaning and break down the dirt, even in the smallest places such as crevices.
 - **Effective Odour Elimination:** Microbial cleaners excel at breaking down the sources of foul odours, such as pet urine or food spills. Instead of masking odours with fragrances, they target the root cause by consuming the organic material that produces the smell.
- Ensuring safety while supporting innovation is possible through regulations and guidelines that differentiate detergents from other commodities and **do not limit the microorganisms that can be used in microbial cleaners**.
- **We see positive improvements in the latest Presidency text** and we are highly supportive of not having any ban on sprays.
- However, concerns remain on the application of a **precautionary statement** on the label, which would be linked to the spray format, especially in the context of a transition for the products already placed on the market without such statement. Product recalls and supply disruption should be avoided.
- A.I.S.E. is concerned about the provisions introduced in Annex V – part A – point 2, which foresee that some “**contained** constituents” (instead of “**added** constituents”), such as enzymes or microorganisms, should be listed on the label, regardless of their concentration. This particular provision could, in practice, be problematic to implement and monitor for the industry, as it does not consider potential impurities present in low concentrations in detergent products. Creating such a requirement, without allowing for these constituents to be present up to a specific threshold, would be unimplementable and unenforceable. A.I.S.E. would recommend to keep the original phrasing, which mentioned “added constituents”, to avoid any implementation issue.

CE marking

- The requirement for CE marking on Detergents and Cleaning Products was **not considered** as part of **the Commission’s Impact Assessment**, and the impact was never assessed in terms of the additional administrative burden and costs versus the actual benefit.



- CE marking can be easily subject to counterfeiting and CE marking will **not be a reliable indicator of a detergent product's conformity with** the Detergents Regulation, as it depends on a self-declaration, which can easily be falsified.
- The self-declaration leads to additional **administrative burden for the sector, in particular SMEs**, without any added value. Actual compliance can only be verified through enforcement against the requirements of the regulation.
- Bearing all the above points in mind, we propose to **delete this requirement** from the proposed Regulation, in line with the view of the Parliament, as this marking will not bring any added value to the safety and compliance of the detergent product.

Dosing

- Dosage information should be provided to the consumer, to ensure correct dosing and use of detergent products.
- However, **manufacturers should be able to provide such dosage information in the manner that is the most appropriate**. Imposing for such dosage information to follow a strict format (such as the one indicated in Annex V – part B – point 4) should however be reconsidered, as dosing information will depend on the type of detergents considered and on the format through which they will be placed on the market. Such flexibility is for example indicated in the Biocidal Products Regulation (BPR), in Article 69, point 2, sub-point (g), which states that the product label should show: *“directions for use, frequency of application and dose rate, expressed in metric units, in a manner which is meaningful and comprehensible to the user, for each use provided for under the terms of the authorisation;”*

Economic operators

- Ensuring a smooth and efficient **communication between economic operators**, and end-users, is essential for the detergents industry.
- **Exchange of information is crucial** to guarantee proper corrective actions will be taken in case non-compliant or defective products are detected on the market. If such non-compliance is discovered, all economic operators should be informed in a timely manner.
- The current organization of the economic operators (manufacturer, distributor and importer) is sufficient to ensure that proper responsibilities are allocated through the supply chain. **The addition of a new economic operator – the authorised representative – will not bring any new added value** to the current system and might actually lessen the efficiency of the supply chain communication in some specific situations (e.g. in case of contract termination for the authorised representative).

