Downstream Users of Chemicals Co-ordination group

17 - CA_12_2022 Follow up document: Use exposure study - consultation

DUCC comments

The Downstream Users of Chemicals Co-ordination group (DUCC) thanks the European Commission for the opportunity to provide comments on the aforementioned document on Use and Exposure.

DUCC is a platform representing 11 European associations whose member companies use chemicals to formulate mixtures (i.e. they are downstream users under REACH and are both recipients of extended SDS and suppliers of safety data sheets for mixtures). Communication on how chemicals can be used in a safe manner along the supply chain is key to secure proper risk control by downstream users. Thus, DUCC acknowledges the key role of formulators in the centre of the supply chain, since they need to ensure the safe use both of the substances/mixtures they receive and of the mixtures they place on the market. DUCC members have a long-standing commitment to working on the topic of supply chain communication. This can be attested by the leadership of its sectors in creating tools for improving supply chain information: the Use Maps, engagement with ENES and DUCC's engagement with the ECHA pilot project on Exposure Scenarios and communication in the supply chain.[1]

As DUCC we will continue to be engaged to this topic and wish to contribute to the study with our experience as downstream users and based on previous work on supply chain information. Below we share some initial comments and remain open to be engaged further on this topic.

General Comments on Option 1:

This option included the following two aspects for clarification.

- Clarification of the term 'professional use':

Professional users include a wide range of different users. In contrast to private end users, professional users - including those handling or working with the chemical substances - are well-trained personnel, who in the course of their professional activity apply required risk management measures, such as technical and personal protection equipment (PPE). The basis for the determination of adequate protective measures and equipment is based on the risk assessment on the basis of the systematic identification and evaluation of all relevant hazards to humans and the environment. Downstream User industry sectors invest in the training of personnel and communicating information on safe use to professional users.

[1] Suppliers phase: https://echa.europa.eu/documents/10162/22786913/pilot_project_on_supply_communication_registrants_report_en.pdf/49311fe4-f105-0fb0-8e26-2685d368d5f2
Formulators phase: https://static.ducc.eu/media/file/2021-08/Formulators%20phase_final%20report_13%2012%202019.pdf

DUCC welcomes engagement with the Authorities on this topic, in order to better clarify this term and ensure that the appropriate guidance etc. is followed during relevant activities.

- Information on technical function

The paper mentions the possibility that DUs share information on technical function with raw material suppliers. Technical function information is CBI, sharing with upstream would give them a market advantage.

More detailed comments on Options 3 and 4:

Option 3:

This option proposes a requirement for all or certain DUs to report the use of (any or certain types of) hazardous and/or classified substances to ECHA as identified in the Safety Data Sheet (SDS). This would include a direct reporting to ECHA. The reporting obligation could either be implemented as an extension of the existing reporting obligations or as an entirely new obligation, potentially making the specific reporting superfluous e.g. the notification of SVHCs in articles. This option is suggested with several tiers considering a 'minimum use reporting', which would already ensure that the authorities have access to a list of the market actors relevant for the considered measures.

The introduction of DU obligations to report use and exposure information to ECHA would in any case impose a significant burden and cost on DU.

- Against this background, additional DU reporting obligation should be limited to cases where it is appropriate and necessary.
- Digital supply chain communication is a prerequisite for keeping the effort within acceptable limits.
- Effort and costs for DU and the resulting benefits should be examined in detail in the course of the impact assessment.
- In order to keep the effort within reasonable limits, possible DU reports should not be updated according to fixed deadlines, but only in case of significant changes.

Option 4 is relating to a new requirement for registrants and downstream users to provide use and exposure information within the framework of consultations by the authorities

DUs usually already participate in consultations in the course of preparing relevant regulatory risk management measures such as e.g. restriction proposals. For this purpose, often the relevant DU sector associations collect and organise the input of the DU sectors. In these cases, it should be possible for the DUs of a sector not to report individually, but to refer to the information provided by their sector association.

Options 3 and 4:

Feasibility of the policy options:

In addition, DUCC has comments to raise with regards to the feasibility of options 3 and 4.

It is not uncommon, in formulating sectors for product categories to be tailored to specific customers, or situations where formulations change over short time periods. DUCC wishes to share some real life examples below for the case of adhesives:

in the area of flexible packaging, there are many highly competitive sub-segments utilizing 2-component PU laminating adhesives. Converters compete for high-volume snack and pasta packaging, and even if they have gained business, they constantly optimise their efficiency as described above. This means that the lifespan of the two component PU laminating adhesive industry has reduced from 10 years to 3 to 5 years.

In the area of the wood and furniture industry, the adhesive manufactures are facing a strong competitive pressure with the need to optimise their products (e.g., reactive polyurethane hotmelts) in regard to cost as well as performance to meet the continuous improvements in the manufacturing process of the industry as well as to address changes in design of the finished article, e.g., lamination of kitchen doors and panels. Therefore, adhesives have to be modified or even completely reformulated. In a way similar to that of the flexible packaging industry, the adhesives industry has faced over the last 10 years a reduction in the lifetime of polymers from more than 10 years to 3 to 5 years.

The electronics industry is well known for the very short life cycles of its products. In the case of handheld devices (HHDs) (mobile phones), new models are released every 1 to 2 years, and adhesives (mainly reactive acrylic- and polyurethane-based adhesives) play a crucial role in the assembly. Such adhesives are developed and manufactured in Europe for export to Asian countries where electronic devices are mainly assembled. Wherever possible, manufacturers of HHDs utilise the adhesive over multiple models, but changes in design or in the way the products are assembled will require reformulation of the adhesive, often combined with a new polymer as backbone to meet the specification of the new model. For such cases, the lifetime of such adhesives can be as short as 1 to 2 years. On top of that, companies need to consider the new requirements for repair and recyclability of electronic devices. These must be considered in the design of the adhesive itself with a high degree of customisation and continuous improvement needs over a longer period to optimise efficiency.

If the granularity of data requested is not framed through a pragmatic approach, considering business models of specific sectors and the needs of the market, the result will be unworkable.

We would propose carrying out a comprehensive impact assessment related to each option in order to assess feasibility and potential level of additional administrative burden for all stakeholders.

Alignment with the work on REACH Review Action 3 and digitalisation

The document states that "the costs and efforts for this option will depend on the implementation of the activities of the REACH Review Action 3 on the standardisation and particularly the digitalisation of information flows along the supply chain." DUCC has been a key contributor to the work on REACH Review Action 3 and wish to continue participating in this work. However, it becomes incredibly difficult to constructively engage where links are not being made between dossiers.

We are missing the link between this work on use and exposure and previous engagement on the REACH Review Action 3. Digitalisation is crucial for the effectiveness of the supply chain communication, but provided all stakeholders are able to finalise the work started, and suppliers are able to provide digital SDS. We thus question how this work can begin, before the work on improving supply chain communication is completed. As rightly noted, **the cost and effort of notification of information by DU is highly dependent on whether the relevant information is communicated in the supply chain in a digital, standardised form.**

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, crop protection, 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.

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