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Sent: 02 March 2022 14:46
To: SADAUSKAS Kestutis (ENV)
Cc: [REDACTED]
Subject: BusinessEurope position papers on the digital product passport & 'Essential Use' concept
Attachments: 2022-02 BusinessEurope position paper on the 'Essential Use' concept.pdf; 2022-02 BusinessEurope position paper on Digital Product Passport.pdf

Dear Kestutis,

I am pleased to share our two freshly released position papers on the digital product passport, which will be included in the upcoming sustainable product initiative (SPI), and on the 'Essential Use' concept in light of the ongoing discussions on the REACH revision.

1) Digital Product Passport (DPP)

Our paper provides concrete considerations for an effective DPP proposal which respects the boundaries for sensitive commercial information as well as Intellectual Property Rights (IPR), enables market surveillance and avoids unnecessary administrative burden. Ahead of the finalisation of the SPI/DPP proposal, we suggest to respect the following five principles:

- Follow the "need to know" and "data minimisation" principles, taking into account the costs and benefits of data sharing from both a circularity and competitiveness points of view.
- The disclosure of data should be limited to circular purposes and tailored according to specific product groups and recipients' needs. Adequate impact assessments would inform this identification process.
- Disclosure of sensitive and business critical information must be avoided, while data security needs to be guaranteed. Robust system for protection of the data must become part of the DPP policy to avoid its misuse and damage to value chains.
- A decentralised system has the potential to transfer up-to-date information along value chains. To prevent duplication and limit administrative burden, existing databases should be made interoperable.
- The DPP should support a level playing field, including by means of effective market surveillance and incorporating the needs and peculiarities of SMEs.

2) The 'Essential Use' Concept (EUC)

In view of the ongoing discussions on the REACH revision, we would also like to take this opportunity to share BusinessEurope position paper on the 'Essential Use' concept with you. Please find our key messages on the matter below:

- The 'Essential Use' concept (EUC) represents a departure from the current risk-based regulatory approach and poses a number of challenges and potential risks such as unclear definitions, substitution by less sustainable alternatives or delay in regulatory decisions.

- It is therefore paramount to ensure the possible integration of the EUC in a way that can enhance the system's ability to regulate harmful substances without putting breaks on much needed innovation and competitiveness of industry.
- The mere presence of a hazardous substance in a process or product is not a sufficient reason to apply the "essentiality" assessment. The EUC could therefore be a valid solution only if applied in a targeted manner, i.e., in case of proven risks to the health and environment, difficulties in managing these risks and if no acceptable alternatives or substitutes exist.

We hope that you will find the recommendations contained in the papers constructive and include them in your considerations accordingly.

We stay at your disposal for any further question on the matters outlined herein.

Best regards,



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