

## Retail and Wholesale position on the revision on detergents and surfactants

### Key messages

- The CE marking, indicating the conformity of a detergent with this Regulation, is the visible consequence of a whole process comprising conformity assessment in a broad sense. Putting the CE mark on the label of the product is not the only way to prove compliance with the EU rules.
- Main responsibilities need to remain on manufacturers who have a more complete level of information and are best placed compared to retailers and wholesalers.
- The introduction of digital labels is timely and in line with modern technology and communication channels. However, pivotal information should remain on-pack.
- Format of labels - our sector believes it is beneficial to add more information on the digital label and less information on the physical label.

### Introduction

EuroCommerce welcomes the revision of the Detergents Regulation which addresses two major shortcomings identified. First, the current Regulation does not take into account new market developments (e.g., innovative products and sustainable new practices). Second, there is a lack of efficient information requirements for detergents (e.g., overlap with the CLP Regulation<sup>1</sup>). It is necessary that the current rules are simplified to reduce the burden for economic operators, and that the appropriate innovative tools are used. For the latter, digital labelling is an opportunity for the sector, although key safety information should remain on the pack to make sure more vulnerable consumers can still access it, the rest of the information should be moved on the digital label.

Consistency with existing policy provisions is paramount. For example, the amendments need to be aligned with the current revision of the chemical legislations: CLP Regulation and REACH Regulation<sup>2</sup>; with current trends on digitalization of product information in the New Legislative Framework Evaluation; and with the Ecodesign for Sustainable Products Regulation (ESPR) which specifically creates the Digital Product Passport (DPP). Importantly, information requirements and obligations should not overlap in different legislations, as it would reduce legal certainty for economic operators as well as the effectiveness of consumer protection by inevitably confusing the consumer

<sup>1</sup> Classification, labelling and packaging of chemicals Regulation (CLP) - [EUR-Lex - 32008R1272 - EN - EUR-Lex \(europa.eu\)](#)

<sup>2</sup> REACH Regulation - [EUR-Lex - 02006R1907-20230528 - EN - EUR-Lex \(europa.eu\)](#)

Evaluation; and with the Ecodesign for Sustainable Products Regulation (ESPR) which specifically creates the Digital Product Passport (DPP). Importantly, information requirements and obligations should not overlap in different legislations, as it would reduce legal certainty for economic operators as well as the effectiveness of consumer protection by inevitably confusing the consumer.

## Specific remarks

### *Scope & definitions*

We oppose the expansion of the scope of the Detergents Regulation. Under Article 2.1 *definition of detergents*, the terms soaps and surfactants have been deleted from the definition. This amendment enlarges the scope of products that may be concerned, e.g., products with hydrocarbons only. We disagree with the amendment and ask to maintain the current definition.

Furthermore, the Commission proposal defines *refill* as the operation by which the detergent is filled in-store from a large container in the end-user's own package either manually or through automatic or semi-automatic equipment. While the definition is limited to "*filled-in store*", some eco-refill capsules are also sold on the market and permit a refill of the product at home. These types of refills are not included in the definition. We ask the Commission for more transparency on whether they would be included in the scope or not.

We need more guidance in some of the definitions that have been amended or introduced in the Commission proposal:

- *Unique product identifier*: It is unclear what does *string of characters* means in the definition. Furthermore, the Commission should explore how CLP-based UFI could be re-used as an identifier, especially because most detergents are mixtures. The Commission must consider that adding a new identifier would require more space on the label without any added value.
- *Unique operator identifier*: Does the unique operator identifier correspond to the VAT number of a company for example? or is the Regulation envisaging a new different identifier?
- There is a need for a clear difference between *detergents for consumers* and *surfactants for professionals*. These two products should be subject to different requirements as they deal with persons with different levels of expertise. To that extent, the term "*surfactant*" should be removed from the definition of *end-users* because as substances they are not meant to be made available to consumers.

### *Products requirements*

Under Article 4 on *biodegradability*, the Commission proposal reads "*Detergents and surfactants shall comply with the biodegradability requirements laid down in Annex I.*" The term "*detergent*" should be removed as the biodegradability requirements of Annex I only apply to surfactants.

### *Obligations of economic operators*

Under Article 7 (6), "*Manufacturers placing on the market detergents that do not meet the criteria for classification as hazardous (..) the ingredient datasheet referred to in point 2.2 (e) of Annex IV*". We suggest replacing with "either the ingredient data sheet referred to in point 2.2 (e) of Annex IV or make a PCN declaration".

Regarding the obligation of manufacturers to provide the ingredient data sheet to the Member States' appointed bodies when the information has changed (Article 7.6.b), we ask the Commission to specify a timeframe for this intervention. The legislative text should add the wording "*during a period of 12*

*months after the initial request*” to allow for sufficient time for the economic operator to comply with the request.

### *Obligations of distributors*

Recital 22 of the Commission proposal reads: *“Since distributors and importers are close to the marketplace and have an important role in ensuring product compliance, they should be involved in market surveillance tasks, and they should be prepared to participate actively in providing all the necessary information”*. We strongly oppose the wording of this recital, as distributors do not have all the proper documentation about detergent products, hence they cannot be prepared to participate actively in providing all the necessary information. This type of information should be found with the manufacturer. Furthermore, the latter might not want to share the information if confidential. Lastly, we ask for clarity on what is meant by the term *“close to the marketplace”* in the Recital.

We believe that the provisions suggested in the revision go further than the GPSR. Therefore, the obligations of distributors should be reduced and aligned with the GPSR. According to Article 10.2, distributors making a detergent or surfactant available on the market shall verify that the conditions have been met by the manufacturer. However, some of the conditions that the distributors must verify are outside their control and knowledge. For example, manufacturers must affix the CE marking *“when relevant”* (Article 7.2.c). How should the distributor interpret the term *“when relevant”*? The distributor will not be able to make this assessment as it is not the manufacturer of the product. Additionally, the distributor would not be able to make sure that the manufacturer keeps technical information for 10 years without access to the registry (Article 7.3). Given the very broad obligations to verify, it should be clarified at the very least that distributors do not have to check the substance of e.g. the technical documentation / conformity assessment. These obligations should be removed as they cannot be complied with and aligned with the GPSR. Furthermore, the retention of the information for the manufacturer should be limited to 6 years instead of 10.

Lastly, the Commission should ensure compliance between Article 10.5 of the proposal for the revision of the Detergents Regulation and Article 12.4 of the new General Product Safety Regulation (GPSR).<sup>1</sup> The obligation of the distributors when there is reason to believe a product is not in conformity should be coherent in the two Regulations. This will ensure legal certainty and clarity among economic operators.

### *CE marking*

The Commission has not sufficiently explained why the CE marking should be indicating the conformity of a detergent with this Regulation, and why it is to be considered the only visible consequence of a whole process comprising conformity assessment in a broad sense (Recital 24). Putting the CE mark on the label of the product is not the only way to prove compliance with the EU rules. The CE marking is not envisaged in the CLP and REACH Regulations, hence the Detergents Regulation should not deviate. We fear its introduction will confuse consumers as other CLP products without or with additional text (e.g., biocides which are CLP + biocides) would not bear the CE marking. CE marking is for Business-to-Government, as is the CE marking represents a manufacturer's declaration that products comply with the EU's New Approach Directives. This does not need to be on the product or package, but can as present in the proposal, be in the Product Passport.

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<sup>1</sup> General Product Safety Regulation 2023/988 - [EUR-Lex - 32023R0988 - EN - EUR-Lex \(europa.eu\)](#)

## Labelling

On general labelling requirements, detergents and surfactants that are made available on the market in individual packaging or in a refill format shall be accompanied by a label. However, it is not clear from the Commission proposal what types of packages are in scope. We need clarification on whether, for example, individual laundry tablets are included. Furthermore, we suggest changing the reference of “*email address*” to “*electronic address*” to be compliant with the definition under the GPSR and to avoid limiting other means of communication.

The Commission proposal provides for additional labelling requirements for certain substances such as preservatives to ensure a high level of health protection (Recital 29). It specifies those requirements should not only cover preservatives intentionally added by the manufacturer in the detergent but also those that ensue from its constituent mixtures, which are often referred to as ‘*carry-over preservatives*’. The constituents of detergents may be bought from different suppliers and have different preservatives. Indicating all the preservatives of the constituents may be confusing for the consumers and unnecessarily burdensome for the economic operators.

Regarding digital labelling, we welcome the introduction of digital labelling provisions that will improve the communication of hazard information from manufacturers to consumers. However, we recognize that some information must be instantly legible and visible on the packaging. That is why essential and crucial product safety information and instructions for use must be visible on or with the product. Although we support crucial information to remain on-pack, continued reliance on paper-based solutions is outdated and leads to a far greater risk of limited and inadequate communication to users, as well as unnecessary costs. Digital labelling also allows for quicker free movement of goods in the EU, removing undue barriers. Furthermore, in the situation where digital labels are temporarily unavailable, and/or the end-user asks to, the distributor shall provide the information requested. Here, the Commission should clarify which timeframe is envisaged for the response.

Lastly, we ask for transparency on why the Commission proposal lists specific substances whose information can be provided by digital means and does not have to be duplicated on physical labels (Article 16.1 and Annex V Part C). It is unclear if this is only a part of the list of substances that we have to mention in the composition, or if needed to mention all substances.

## Product Passport

A Product Passport is a great opportunity to modernize and digitalize product information and a good tool for consumers to access information. It is further positive that the Product Passport will comply with the same requirements and technical elements as those set out in the proposal on ESPR. The Digital Product Passports (DPPs) should be founded on open and international standards, and on the principles of interoperability, and proportionality. The Commission should put in place robust protocols to secure confidentiality and verification to prevent conflicting data duplication are in place. The system should ensure supply chain parties do not duplicate or modify data without authorization. Furthermore, the DPPs need to be kept simple, should avoid disproportionate administrative burdens and costs, and be provided in all the EU official languages to ensure proper access and use by SMEs. We welcome the reference to implementing acts in Article 18.9. The Commission shall adopt an implementing act determining the specific and technical requirements for the DPPs. This is necessary due to the complexity and variation of different detergents. Furthermore, we support the introduction of an examination procedure in accordance with Article 5 Regulation 182/2011. Lastly, relevant stakeholders should be consulted prior to the Commission’s adopting of an implementing act determining the specific and technical requirements related to the product passport.

## *Refill stations*

Refill practices are an innovative way to sell detergents, often by SMEs, in line with the transition to a circular economy and reducing packaging. It is in line with societal demand and appreciated by consumers. Any legal reference should support such innovation to further develop and not lead to disproportionate rules or obligations. It should rather provide legal clarity to businesses wanting to embark on this road and refer to guidelines where needed. It should allow for the same level of consumer information and safety as for prepacked products, with the help of guidelines if needed.

We support the proposed revision for the Detergents Regulation introducing the possibility for detergents sold to end-users in a refill format to provide all the mandatory information on digital labels. It mentions that it should be permitted to provide all labelling information digitally except for dosage instructions for consumer laundry detergents (Recital 34, Article 15.2 and Article 16.2). Digital labelling could be considered an opportunity for refill to fully reap from benefits offered by digitalization and large environmental benefits.

Nonetheless, the proposed Regulation lacks the necessary guidance in case the consumer presents a different container – unmarked. The Commission proposal should clarify in the legislative text that the seller can deny consumers to refill the product if they bring the incorrect containers. It should remain the responsibility of consumers to bring the correct container. We welcome the specification that the refill package needs to be labelled before leaving the store for health and safety reasons. However, more clarity on the role and responsibility between the distributor and the consumer is needed.

## *Transitional provisions*

We support the provision allowing economic operators to sell stock in the distribution chain or in storage at the date of application of this Regulation (Recitals 63-65, and Articles 34 and 35). Specifically, Article 34 provides that distributors can exhaust their stocks of detergents and surfactants if they were placed on the market 30 months from the date of entry into force. If the detergents and surfactants were placed on the market after, they can be sold for the following 36 months. Distributors will therefore be able to supply their products until their exhaustion. Transitional arrangements better ensure legal certainty for economic operators who will have the time to implement the new rules. Importantly, these arrangements also limit the waste of products where the distributor does not have the relevant resources to make the necessary adjustments to the finished product.

## *Annexes*

### **Annex 4. Module A**

The technical documentation includes (e) “*an ingredient data sheet*”. We consider that it is not necessary for classified products because the regulation indicates that these products do not need an ingredient information sheet. We propose to delete this reference for classified detergent from the technical documentation because the information is already in the PCN (poison centre) declaration on IUCLID (European tool).

### **Annex 5. Part A**

The fact that the weight percentage will be indicated by ranges “*less than 5 %*”, “*5 % or over but less than 15 %*”, “*15 % or over but less than 30 %*”, “*30 % and more*” implies having to carry out translations for products sold internationally. We propose to indicate use: <5%, 5%-15%, 15%-30%, >30%.

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