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Clarification of supplier duties under CLP Regulation

FEICA, the Association of the European Adhesive & Sealant Industry, is a multinational association representing the European adhesive and sealant industry. Today's membership stands at 16 National Association Members (representing 17 countries), 25 Direct Company Members and 23 Affiliate Company Members. The European market for adhesives and sealants is currently worth more than 17 billion euros. With the support of its national associations and several direct and affiliated members, FEICA coordinates, represents and advocates the common interests of our industry throughout Europe. In this regard, FEICA works with all relevant stakeholders to create a mutually beneficial economic and legislative environment.

Requirements on updating labels with new information

The proposal of the EU Commission for an update of Regulation (EC) No 1272/2008 introduces in Article 30 a 6-month timeline for updating label information and, allowing for some exceptional cases, 18 months. The duty to ensure the update of the label is given to the supplier, which is defined in Article 3 of that Regulation "any manufacturer, importer, downstream user or distributor placing on the market a substance, on its own or in a mixture, or a mixture".

The proposed text does not clearly define whether these timelines apply to every player in the supply chain individually or to the whole process encompassing the whole supply chain. Also, the starting point for the timeline is not clearly defined. It is the time when new information becomes available, but without clarification to whom. Furthermore distributors, who neither modify the product nor the packaging, do not design or attach labels and usually have no capabilities to do so. Relabelling of an already labelled product is technically challenging and economically not feasible even for the original producer of the product. This would therefore result in additional waste should an already labelled product be taken off the market within its shelf life.

In cases where packaging is pre-printed with information required in Article 17 or 25 of that regulation, an update of this information often requires more than 6 months as it requires coordination between the producer of the product and the supplier of the packaging but also the use of already printed packaging material and its replacement with updated label information.

To avoid additional waste and to avoid one player up the supply chain using most of a common timeline before handing the information down the supply chain, these points should be further clarified in the legal text:

- A distributor who does not modify the product or the packaging should be exempted from the duty to update the label of the products he has in stock
- The timeline should apply to each supplier individually starting from the time when that supplier receives the updated information, usually via an updated safety data sheet

Name of the supplier on the label

In a way analogous to the situation when a label is updated (Article 30), the supplier's name required according to Article 17(a) needs to be further specified to align with current common practice and the advice given in the ECHA Guidance on CLP V4.2. For reasons explained above, the supplier's name on the label should be that of the last player in the supply chain having modified the product or the packaging. This supplier is usually also the one who has the best knowledge about the product and its ingredients, while a distributor neither has this knowledge nor is able to change the name on the label. For clarification, distributors modifying neither the product nor the packaging should be exempted from being named on the label.

Article 25(6) repeats this requirement of giving the name of the supplier and therefore also needs to be considered for clarification.

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