



ASMoR welcomes the goal of the Green Claims Directive but warns against both the use of the “essential use” concept and attempts to limit the possibility of associating green claims to products containing hazardous substances.

The “essential use” concept should not be introduced in legislative texts unless it has been properly defined.

Green claims and the use of hazardous substances should not be considered in conflict.

To ensure consumers can make sustainable consumption choices and contribute to a circular economy it is key that they are provided with reliable, comparable, and verifiable environmental information about goods or services they want to purchase. In this context, **ASMoR welcomes the goals and principles of the European Commission’s proposal for a Green Claims Directive** (Directive on the substantiation and communication of explicit environmental claims) and the possibility of using internationally recognized methodologies to calculate and communicate the environmental impact of a product.

The proposal, published on 22 March 2023, sets minimum criteria that companies making claims to consumers in the EU about the environmental benefits and performance of their products or services need to meet, as well as minimum criteria for environmental labelling schemes. While this work is worthy of recognition, ASMoR would like to recommend caution regarding the **use of the concept of “essential use” and, more generally, on attempts to limit the possibility of associating green claims to products containing hazardous substances. Not all hazardous substances represent a risk, so their use could also be safe.**

Recital 67 mentions the possibility to prohibit the use of environmental claims for products containing hazardous substances with the exceptions for substances deemed “essential” for society, while Article 21 (3) considers the “essential use” concept as part of future review processes. The “essential use” concept is at very early stage of development in the context of the Chemicals Strategy for Sustainability (‘CSS’) and the REACH revision, which has not yet been published by the European Commission. There is no definition yet of “essential uses” beyond the one used in specific legislations, limited in scope. Essentiality is also a dynamic concept

which evolves over time and on this basis criteria for defining a use of a chemical substance as essential still deserve in-depth discussions. There has been no adequate or rigorous public debate to assess the socio-economic benefits of using 'essentiality' to regulate the use and development of chemicals and technologies. The use of this concept by the EU institutions has not been examined through the prism of the Better Regulation tools and no proposals have been set out in the Chemicals Sustainability Strategy.

We strongly believe that **the “essential use” concept should not be introduced in legislative texts – including the Green Claims Directive – unless it has been properly defined, criteria are set and experiences on its implications and workability are gained.**

Additionally, **ASMoR believes that the provision which, following the evaluation of the Directive 5 years after its entry into force, foresees the possibility of prohibiting green claims for products containing hazardous substances, unless their use is considered essential for society, should be amended.** First and foremost, **the mere presence of hazardous substances does not immediately imply a negative impact on the products' performance and as a consequence, it should not impede making a green claim.** Hazardous substances are often used in applications that are enabling the transition towards a more sustainable society. **Additionally, such a provision might disincentivise research and product development oriented to limit environmental impacts.** With proper management, the presence of hazardous substances in a product does not automatically lead to the release of the substance to the environment or exposure for consumers, therefore not necessarily leading towards unintended negative environmental impacts.

Where uses of chemicals are demonstrated to be safe¹ from both human and environmental perspective, a ban of the use cannot be considered a proportionate measure. There would be no benefits that could even begin to outweigh the societal costs. In addition, **there are already dedicated legislative frameworks and policies in place**, such as REACH and, in the field of food contact Regulation (EC) 1935/2004, which take into account not only hazardousness of the use of a chemical substance, but also **the safety of their use, based on high quality science and application-specific risk assessment.**

Last but not least, the possibility to claim environmental performances across different compartments (e.g.: lower water consumption, reduced CO₂ emissions, reduced emissions, recyclability, sustainably sourced materials, etc..) should not be prevented by the presence of a hazardous substance as it **would impede consumers to access certain information** on positive environmental performances, not allowing consumers to take informed purchasing decisions. This is against the principles of this proposal to enhance transparency regarding the sustainability and environmental footprint of products and empowering consumers.

Green claims and the use of hazardous substances should not be considered in conflict. Instead of limiting a priori the possibility of green claims, they should be seen as an additional tool to promote the **safe use** of chemical products.

¹ For more info on “safe uses” please refer to [“ASMoR Comments on Appendix C of the WSP Essential Use Report – Safe Uses”](#)

We hope that these comments will be helpful and trust that they will be duly considered in the legislative process. ASMoR and its members are keen to continue dialoguing with EU institutions to properly define the “essential use” concept and strengthen the safe use of chemicals, thereby securing the Green Claims Directive fully reach its objectives.

ANNEX: List of Members of the ASMoR

