

AUTO4REACH COALITION



European
Automobile
Manufacturers
Association



The
Motorcycle
Industry In
Europe



AUTO4REACH comments on the document CA/61/2020

Essential Uses

Brussels, 6th of January 2021

AUTO4REACH is a coalition of industry associations representing the manufacturing industry in Europe of Cars, Light Duty Vehicles, Heavy Duty Vehicles, Motorcycles, mopeds, tricycles and quadricycles including the supply chain of parts, components and tyres. It is estimated that 13.8 million Europeans work in the auto industry (directly and indirectly), accounting for 6.1% of all EU jobs, and with an estimated trade surplus of €84.4 billion for the EU. AUTO4REACH associations represent manufacturers of complex products, importers as well as downstream users of substances, mixtures and articles.

The signatories support the Green Deal and commit to the general objectives of sustainable development by offering a safe working environment to their employees, proposing safe products to its customers, designing products which are sustainable over their entire life-cycle.

Efficient measures for substances management in the automotive industry

The automotive industry also is fully supporting the objectives of the REACH Regulation to **protect human health and the environment from the risks posed by chemicals, taking into account the actual exposure** to chemicals, the **wider benefit for society** and the need for a **level-playing field** that does not undermine the competitiveness of EU industry.

Since the REACH Regulation came into force, the automotive industry has done an immense amount of work and is putting considerable effort into implementing the complex requirements of EU chemicals regulation throughout its complex and global supply. Through a close cooperation across this value chain, **efficient measures have been developed** including

- Tools to ensure tracking of substances (IMDS (www.mdssystem.com));
- GADSL (www.gadsl.org);
- AIG REACH (www.acea.be/REACH);
- ACEA Safety Data Sheet Compliance Checks Guidance (www.acea.be/REACH);
- etc.

Context and overall objectives

With its **Chemicals Strategy for Sustainability (CSS)**, the EU Commission has now presented a comprehensive action plan with a very large number of legislative and non-legislative measures all having a **huge and potentially not accounted impact on industry**. Understanding and assessing the impact and finally implementing the many different CSS measures requires time, especially for industry with highly complex and globalised supply chains and manufacturing processes. In this context, the automotive industry believes that the definition of the notion “essential use” is of utmost importance and should be one of the first steps of the CSS.

The CSS points out that the Commission will *“define criteria for essential uses to ensure that the most harmful chemicals are only allowed if their use is necessary for health, safety or is critical for the functioning of society and if there are no alternatives that are acceptable from the standpoint of environment and health. These criteria will guide the application of essential uses in all relevant EU legislation for both generic and specific risk assessments”*

Due to the comprehensive application of the approach to the "most harmful chemicals", the determination of the criteria and the definition of "essential uses" will have a decisive influence on the industry. From the point of view of the automotive industry, **this approach should stick to the intention of the existing definitions, taking for example into account the wider benefit to society.**

As an illustration, we could mention the potential impact of further restrictions on substances regarding the electrification of the transport sector which has been identified as a major contributor to the objectives of the Green Deal: some targeted substances are key to the development of electric vehicles and their components (e.g. electrodes, fuel cells...). In general, substances are used to fulfil specific requirements and potential substances of very high concern are only used when no substitute exists with safety measures and limited exposure both for workers and users.

Definition of “essential use”

The development of the concept of **essential use** shall be a holistic approach that acknowledges the specificities of technical goods. AUTO4REACH concurs with several of the conclusion raised at the document CA/61/2020, and we would like to highlight the following points:

- The **essential use** concept shall be built taking into account all the regulatory options available in the European regulatory framework to protect the risk for users and the environment, which is much broader than the scope for which the Montreal Protocol was developed.
- **The hazard of the substance shall not be the only parameter relevant** when tailoring the application of the essential use concept. The benefits that the substance may pose when used shall also be considered.
- **Securing a level playing field** for both EU-based producers and importers is crucial. This is particularly relevant for process chemicals that do not remain in the final product, as the regulatory framework only applies to EU based producers and not elsewhere.

- **Better predictability.** A predictable and coherent regulatory framework of chemicals substances is essential to secure an ideal environment for EU investments. An essential use concept that fails to secure the use of crucial chemicals in products leads to insecurity and weakens the EU capacity to attract investment.
- It should be coupled with a global governance **to avoid regulatory overlapping.** Indeed, this represents a major problem for sectors facing both global scopes - *such as the REACH regulation* -, and sector-specific frames - *such as the vehicle end of life directive*, both introducing specific and barely consistent obligations for heavy metals for example, resulting in additional administrative burden without corresponding benefit to human health and protection of the environment.
- **Assessment on the impacts of the essential use definition.** At this stage, is not defined yet how the essential use concept will be used in policymaking and to which substances will apply, as the *most hazardous substance* concept is still open for interpretation. We therefore see the need to assess the socio-economic impacts of an inclusion of the concept in the REACH process, without dismissing the impacts for manufacturers and SMEs

With different backgrounds, scope and objectives, the Montreal Protocol cannot be directly implemented in REACH procedures. In general, any regulatory evolution must be done very carefully and should be limited to those chemicals that actually pose a risk, according to actual exposure scenarios.

Overall, we consider that a CARACAL expert group on its own cannot address the complexity of the question that the essential use concept poses. AUTO4REACH calls for the introduction on the process of defining essential uses expertise and advice in trade, economy, innovation and industrial process.