



His Excellency
Mr. Mauri Pekkarinen
President of EU Competitiveness Council
Minister of Trade and Industry
P.O. BOX 32
FI – 00023 Government

Brussels, 27 October 2006

Proposal for Registration, Evaluation and Authorisation of Chemicals (REACH) COM (2003) 644

Excellency,

Following the result of the vote in the European Parliament's Environment (ENVI) Committee on October 10th on REACH, we, ACEA, ASD and Orgalime¹, wish to raise our serious concerns on the outcome since the delicate balance between REACH objectives, to which we are fully committed, and competitiveness, formally achieved by the Council, has been compromised. In view of your further discussions, we urge you to consider the following points concerning the fundamental guiding principles which apply to us, the downstream users:

- **Legal certainty and level playing field:** REACH must provide a level playing field and legal certainty, which are key for the competitiveness of our companies.
- **No legislation overlap:** REACH should not overlap with sector specific legislation applying to our industry products, which are already highly regulated in the environment, health and safety fields. We are, therefore, very concerned about the potential multiple overlap of REACH with, for example, the Energy Using Product Directive, the WEEE and RoHS Directives, the General Product Safety Directive, the European Aviation Safety Agency (EASA) Regulation, to name but a few.
- **No shift of responsibility down the supply chain:** REACH must consider the different roles of the different actors in the supply chain and ensure that responsibility is not shifted down from the substance suppliers to their clients' downstream users.

Those fundamental guiding principles lead us to the following recommendations for which we request your support:

- It is essential that the Council rejects the strengthened requirements, which were reintroduced during the ENVI Committee vote, in the area of **authorisation**, in particular the **mandatory substitution principle and time limits**. Strengthened requirements would clearly negatively affect the ability of leading sectors of our industry to develop innovative products in the EU which are essential to the growth and jobs agenda.
- We believe that the Council should **strongly oppose changes to provisions related to substances in articles** brought by the ENVI Committee, which would in our view unfairly overburden downstream users. More particularly, the Council should **reject the reference to "homogeneous material"** in article 3(3) and article 7(2). This approach would bring legal uncertainty due to the difficulty to define what "homogeneous material" means and would lead to a significant increase of notifications to be made by article producers who rely on extremely complex global supply chains. We equally call upon the Council to **reject the deletion of the one tonne threshold** in article 7(2) and article 7(5).

¹ ACEA, ASD, and ORGALIME represent the European Automotive, Engineering, AeroSpace and Defence Industries, accounting for an annual turnover of 2115 billion euros and employing some 12.6 million people. We speak for more than 130 000 companies, from very small to very large, that are downstream users of chemicals, accounting for more than 15% of the consumption of chemicals in the EU.

- There should be **no European quality mark** for substances in articles since it would clearly overlap with the CE marking, as well as sector specific legislation.
- We believe that the Council should **reject the ENVI Committee's approach towards duty to communicate information on substances in articles** since it would result in overlapping with sector specific legislation in the health and safety field and in particular the General Product Safety Directive.
- The Council should **seek to oppose the unclear concept of "duty of care"**, which would only bring legal uncertainty.

We also attach our more detailed comments on the ENVI Committee voting results, which we urge you to support, in order to restore the delicate balance formally achieved by the Council, with a view to ensuring that workable and enforceable provisions are enshrined in the final Regulation. We believe that any agreement should, in all cases, secure a workable piece of legislation. Therefore, the quality of such legislation should be considered as more important than a rapid conclusion of the regulatory process.

We, of course, remain available to furnish you with any further information that you may require.

This letter has also been sent to Mr. Jan-Erik Enestam, Minister in charge of the Environment and President of the EU Environment Council.

Yours sincerely,

(electronically signed)

Ivan Hodac
Secretary General ACEA
Rue du Noyer 211
B-1000 Belgium
Tel : +32 2 738 73 57
www.acea.be

(electronically signed)

François Gayet
Secretary General ASD
Gulledelle 94-b.5
B-1200 Brussels
Tel : +32 2 775 81 11
www.asd-europe.org

(electronically signed)

Adrian Harris
Secretary General Orgalime
Blvd. A. Reyers 80
B-1030 Brussels
Tel : +32 2 706 82 35
www.orgalime.org

Annex: ACEA, ASD and Orgalime comments on the ENVI Committee second reading voting results

Cc.: Mr. Eikka Kosonen, Ms. Nina Vaskunahti, Ms. Anna-Liisa Sundquist, Ms. Tujia Talsi