REACH: ACEA, ASD, Orgalime comments on the European Parliament's Environment Committee second reading voting results
Brussels, 27 October 2006

AM Nr.	Legislative reference	Description	Recommendation[1]	ACEA , ASD, Orgalime comments
Substances in articles/European quality mark for articles				
33	Article 3 point 3	Amended definition of article Reference to homogeneous materials	-	Would increase legal uncertainty: our practical experience with legislation applying to our sectors in particular which refer to this concept shows it is extremely difficult to deal with such an approach, especially when it comes to properly defining what "homogeneous material" means.
38	Article 7 para. 2 to 5	Modifications to article 7 para. 2 to 5	-	The present amendment risks disturbing the fragile balance reached in the Council common position and would particularly be detrimental to article manufacturers for the following reasons: • The reference to "homogeneous material" as well as to potential additional measures for concentrations below the 0.1% limit would increase legal uncertainty and risk severely hampering the competitiveness of our downstream users industries. • Calculating substance concentration in homogeneous materials of an article would exponentially increase the number of required notifications, particularly as our industry depends on a global supply chain. • Deleting the tonnage threshold would be in contradiction with the general obligation to register substances above 1 tonne, and would put article manufacturers at a competitive disadvantage compared to substance producers. • Proper and effective market surveillance would be very difficult to achieve.
64	Article 33 a (new)	Duty to communicate information on substances contained in articles (within 15 working days)	-	• The consumer information requirement goes too far and is not workable: it would place a disproportionate data management and communication burden on article producers, especially on SME's. • Will overlap with existing legislation where strict consumer information requirements are already present such as in the General Product Safety Directive. • Risks forcing companies to reveal confidential data and know how, negatively impacting their competitiveness.
40	Article 8 a (new)	Introduction of European quality mark for substances in articles	-	• Risk overlapping with the so-called "CE mark" to be placed on the vast majority of our products according to various product specific legislation applying to them. Double marking would risk confusing consumers. • Sector specific legislation provides for particular extended information requirements.

[1] + : ACEA, ASD and Orgalime seek your support for this amendment
- : ACEA, ASD and Orgalime ask you to reject this amendment

Authorisation/substitution				
Inter alia 6 18 63 73 83 98 103 105 106 108 109 110		Stricter requirements to the authorisation procedures *Inter alia* Introduction of mandatory substitution and time limits	**-**	The Council has arrived at what we perceive a strong approach towards authorisation. In particular, the Council text requires applicants to issue an analysis of alternatives and foresees a review of granted authorisations on a case-by-case basis. We therefore strongly oppose the re-introduction of a general substitution principle or time limits by Parliament for the following reasons: • Innovation requires a large substance portfolio, which is essential to ensure downstream users' competitiveness. • Time limited authorisation periods disregarding the reality of our investment/product/maintenance cycles would force our member companies to try to re-engineer highly complex products mid-cycle, often to the detriment of other important factors such as functionality, environmental performance or safety. • Time limits would force the applicant to arbitrarily re-issue applications already containing well documented information on the safe handling of substances. • Investment requires planning certainty: companies would not be able to recover high investment costs while engineering resources would be diverted from working on new innovative products. • In order to ensure planning and legal certainty for our companies, sound and careful scientific assessment must be the basis for decisions that could lead to the restriction of the use of a certain substance.
Registration: Use and exposure categories / Downstream users				
34	Article 3 point 25	Amended definition of identified use	**+**	The reference to use and exposure categories in this definition appropriately complements the Council approach to use and exposure categories which we fully support.
53	Article 28 para. 1 point D) a (new)	Information for pre registration to include information on identified uses/use and exposure categories	**+**	We find it important that information regarding not only pre-registered substances but also regarding covered uses/use and exposure is made available and accessible to downstream users as early as possible in the REACH process.
57	Article 28 para. 5	Agency to publish on its website information on pre registered substances incl. information on identified uses/use and exposure	**+**	See amendment 53
48	Article 14, para. 7 a and 7 b (new)	a) Supplier to supply information to the downstream user b) Downstream user to supply information to the supplier upon request	**a) +** **b) -**	a) Downstream users, in order to properly carry out their obligations, depend on access information as early as possible. b) If not expressed in use and exposure categories, downstream users would have to reveal individual uses and confidential business data. This would put European IPR at stake and risks damaging the competitiveness of European engineering industries. The phrase "reasonably requested" is moreover open to various interpretations and could cause legal uncertainty.
55	Article 28 para. 2 a (new)	Allow 6 additional months for pre-registration of substances	**+**	We agree with the extension of deadline for pre-registration if requested by downstream users.

16	Recital 54	Downstream user to provide advice on safe use to consumers	-	Would overlap with existing legislation where strict consumer information requirements are already present such as in the General Product Safety Directive or in product specific legislation.
65	Article 36 para. 4 point (c)	Deletion of the 1 tonne threshold below which no downstream user chemicals safety report would be required	-	Would discriminate downstream users against suppliers and shift down duty to carry out detailed chemical safety reports to non chemical downstream users.
Duty of care				
26	Article 1 para. 1	Reference to duty of care in the legal text	-	• Would unnecessarily duplicate the liability system, as compliance with REACH regulation in itself embodies industry's responsibility for the safe management of chemicals. • Concept defined at national level with differing legal status across the EU: If a duty of care were introduced into the REACH legal text it would interfere with national liability systems and therefore lead to legal uncertainty.
28	Article 1 para. 3 a, 3 b and 3 c (new)	duty of care principle to apply to downstream users and article producers	-	See amendment 26