

Argumentative paper against the ban on environmental claims for products containing hazardous substances (ENVI/IMCO AM23)

Claims are essential tools for differentiating cosmetic products, informing consumers, stimulating innovation, and fostering competition. To fulfil their role, it is vital for claims to evolve with markets, scientific progress, and the diversity of consumers, as well as the changes in societal demands, trends and fashions.

Cosmetics Europe, the European trade association for the cosmetics and personal care industry, has an intimate understanding of claims and welcomes the European Commission's proposal for a Green Claims Directive. We support its overarching goal to tackle "greenwashing" and develop an EU-harmonised framework for green claims that will help empowering consumers to make more sustainable choices while creating a level playing field for businesses.

In light of this, we would like to convey our opposition to the proposed ban of environmental claims for products containing hazardous substances or mixtures and we subsequently ask to reject amendment 23 in the ENVI-IMCO Draft report, or any similar proposal.

We believe that preventing any environmental claims for products containing hazardous substances is disproportionate and counterproductive for the following reasons:

- **The Green Claims Directive aims at regulating environmental claims and better inform consumers, while the proposed amendment bans environmental claims, depriving consumers from any information, solely based on the presence in the product of hazardous substances.** A dedicated legislative framework (REACH, CLP, and the Cosmetics Product Regulation) is already in place to regulate the safe use of substances, based on product-specific risk assessment. The Green Claims Directive shouldn't de facto impose a ban on environmental claims for products containing hazardous substances. This could prevent all products from making any claims, indirectly resulting in a ban on such substances. Furthermore, there has not been examples of products with misleading/inaccurate environmental claims due to the presence of hazardous substances that would not be otherwise tackled by the provisions in the proposed directive.
- **Claims on products containing such substances should be allowed as long as the use of ingredients complies with the applicable safety legislation and provided that the claim can be substantiated as required by the Green Claims Directive.** The mere presence of hazardous substances does not automatically imply a negative impact of the substance or mixture on the environment (many are safely used), or any incompatibility with improving performance in various environmental impact categories or aspects. Furthermore, article 3 §1 (g) of the Green Claims Directive proposal already provides that traders cannot communicate positive impacts if there is harm to other impact categories (e.g. climate change, biodiversity). This provision would prevent claims that contradict or are inconsistent with the presence of a hazardous substance impacting ecotoxicity or human carcinogenicity for example, which are both existing environmental impact categories.

- **A blanket ban of claims would prevent informing consumers about improvements made to the environmental profile of safe products and would disincentivize investments in innovation.** As classified substances are safely used, it happens that the environmental profile of a product is improved over time. If claims on such products are banned, consumers won't be informed about the improvements made and as remarked by the European Commission, this could disincentivize innovation aimed at improving the environmental profile of products containing a low concentration of hazardous chemicals. Furthermore, a ban will mean that products of the same product-category, but with different environmental footprints will look the same and consumers won't be able to choose the most sustainable product for a specific category.
- **The wording "products containing" would include any traces or contaminants present in the ingredients in their natural state.** Oftentimes traces are present in water or other raw materials (like e.g. orange or lemon essential oil), and as such they are unavoidably present in the final product. As the wording stands, the mere presence of traces of impurities with certain hazard classifications would ban the use of any environmental claims. We would like to flag that this is stricter than current ecolabel requirements (EU and national), which does not account for traces and sets thresholds in certain cases. Secondly, **the formulation "toxic and hazardous to the environment" is not a hazard class with clear criteria, but a broad undefined statement.** It could potentially capture a very large number of substances, hence banning green claims for a wide range of products. There is limited to no correlation between the wide spectrum of environmental claims and hazardous classifications, and in particular human health and physical classifications. For example, a product can be flammable (if it contains alcohol for example) but be in a recycled packaging or with an improved carbon footprint, which companies should be able to claim to inform consumers.
- **Finally, introducing amendments to accommodate the notion of threshold or 'intentionally added substances' within the Directive presents inherent contradictions that undermine its core objectives.** Firstly, setting thresholds becomes impractical given the diverse nature of products; what might be an acceptable limit for mascara differs significantly from that of a car battery. Consider solid shampoo, which could have a high threshold in its original form, yet when diluted, the threshold reduces. Despite this change, the solid shampoo remains safe for both consumers and the environment. Secondly, the concept of intentionally added substances would unfairly encompass products which are safe. For instance some product can contain essential oils, which themselves can contain hazardous substances. Despite being intentionally added, the product in itself still adhere to existing safety regulations. **Therefore, we are opposing the idea of a ban on environmental claims for product containing hazardous substances and any other similar proposals."**