AmCham EU
SPEAKING FOR AMERICAN BUSINESS IN EUROPE

Our position

Revision of the Classification, Labelling and Packaging of substances and mixtures (CLP) Regulation

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3 trillion in 2019, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

American Chamber of Commerce to the European Union
Speaking for American business in Europe

Avenue des Arts/Kunstlaan 56, 1000 Brussels, Belgium • **T** +32 2 513 68 92
info@amchameu.eu • amchameu.eu • European Transparency Register: 5265780509-97

Executive summary

The Revision of Regulation (EC) No 1272/2008 on hazard classification, labelling and packaging of chemicals (CLP Regulation) rightly aims to ensure a well-functioning single market for chemicals and a high level of protection of human health and the environment. If implemented, the following recommendations could provide further clarity and improve the workability of the CLP Regulation revision.

Key recommendations:

- Industry should have sufficient time, at least 12 months, to update information on labels.
- Font size should be degressive, depending on the size of the packaging, for those 3L and under. For substances and mixtures supplied to professional and industrial users, the regulation should envisage a single minimum font size for all packaging capacities.
- Environmental claims provisions should be deleted to ensure that the proposed Green Claims Directive is the text that defines environmental claims on products and avoid double regulation.
- The revision should include a simpler, more streamlined, provision for advertising, particularly in the business-to-business (B2B) setting.

Introduction

The CLP Regulation aims to harmonise the communication of chemical substances and mixtures based on the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals. The regulation presents specific criteria for substances and mixtures as well as rules on labelling of hazardous chemicals to protect human health and the environment. Its provisions affect the activities of manufacturers, suppliers, importers, and downstream users, making its provisions' coherence and implementation all the more crucial. The following recommendations aim to provide further clarity and improve the workability of the CLP Regulation revision.

Transition periods and label changes

Businesses need realistic transition periods to implement any changes to CLP, especially to update labels. The **current transition periods proposed in Article 30** are not feasible for businesses. While some label updates may be possible in shorter timeframes, more time is needed for updates of labels that involve artwork (eg labels pre-printed on packaging), which are common industry practice.

When changing classification and labelling, the artwork re-design process alone takes a single supplier in the CLP supply chain approximately nine to 12 months, in addition to identifying, generating and evaluating new data and any research and development required to re-formulate products.

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Therefore, the European Parliament should change the deadline for reclassifications to at least 12 months to update the labels, while maintaining the 18-month timeline for other changes.

Font size

The proposed provisions related to the **font size of labels (Annex I)** could lead to an overall increase in label size or in some cases, larger rather than smaller packaging formats, conflicting with the objectives of the Packaging and Packaging Waste Regulation. The operational impacts would be significant due to additional re-labelling, leading to additional artwork, production, transportation, storage, and loss of sales due to more obsolete products, which could not be sold across different markets. These provisions might prevent companies, especially small and medium-sized enterprises, from including several languages on single and fold-out labels, which are by far the most cost-effective label type. The diversity of languages on labels allows businesses to vary distribution according to market demand.

To avoid these negative outcomes, the revision should stipulate a **degressive font size criterion, similar to Regulation (EU) No 1169/2011 on Food Information to Consumers**. Specifically, the regulation should create a new smaller packaging category with the following requirements: a 1.4mm for products between 1L-3L; a 1.2 mm for products between 0.5L-1L (in line with existing European Chemicals Agency guidance); and 1mm for products below 0.5L. Moreover, the label requirements may be omitted from the inner packaging if the content do not exceed 25ml. Additionally, for substances and mixtures supplied to professional and industrial users, CLP should foresee a minimum font size on all packaging capacities set to the x-height of 1.2 mm.

In addition to labels, industrial and professional users rely on safety data sheets, and workplace and environmental risk assessments to ensure safe use of substances and mixtures and to protect the environment. An excessively complex set of font size rules in such settings would negatively affect industry operations without significantly benefiting human health or the environment.

Environmental claims

The Parliament amendment to ban the use of environmental claims on products **(amending Article 48)** that are classified or carry supplemental labelling is beyond the scope of CLP. As the proposed Green Claims Directive already defines the rules for such claims, this addition would likely lead to unnecessary double regulation, causing legal inconsistency and mass confusion across industry. Therefore, the EU institutions should avoid introducing any specific requirements in this area. Environmental claims and packaging sustainability rules must be regulated via their own specific legislation to ensure legal certainty and coherence.

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Advertising

The European Commission's proposed provisions on advertisement (Article 48) would be disproportionate in B2B settings, and the further extension of requirements by the Parliament even more so. The stricter rules on advertisement envisaged in the Commission proposal should be targeted at sales to the general public. Advertisement for industrial and professional products should instead entail a more specific requirement to 'always read and follow the Safety Data Sheet', rather than to provide the key label elements, as currently proposed. The Parliament should consider a more streamlined, simpler approach for B2B settings.

Article 48 should also be amended to exclude online sales. Article 48(a) is already specifically dedicated to online sales and makes clear that all important information needs to be included in all distance sales offers. Should policymakers decide to also cover online sales advertisements under Article 48, they would be required to include further clarification on how to distinguish advertisements (within Article 48) from distance sales offers (within Article 48a).

Conclusion

The proposed revision of the CLP Regulation is an opportunity for the EU to develop harmonised classification requirements that would better protect human health and the environment. To ensure their successful implementation, the abovementioned recommendations should be carefully considered to ensure further clarity and workability of the legislation.