

CTPA Position on the 'Essential Use' Concept

July 2022

Introduction

CTPA, the Cosmetic, Toiletry and Perfumery Association, is the trade association representing the UK cosmetics and personal care industry. Cosmetic products include, amongst others, suncare, toothpaste, shampoo and toiletries, makeup, hand sanitiser, fragrance and shaving products. The UK retail cosmetics and personal care market was valued at £8.5bn in 2021, at retail sales price (CTPA Annual Report 2021).

CTPA and the UK cosmetics industry strongly support the need for regulatory frameworks to protect the environment and human health. CTPA welcomes a proportionate, risk-based and science-led approach to environmental, chemicals and product safety management.

The Importance of Cosmetics and Personal Care Products to Society

Cosmetics and personal care products bring important functional and emotional benefits to consumers, contributing to well-being and mental health, thus providing essential societal benefits. Research conducted by Opinium for CTPA in 2022 found that 85% of UK adults class cosmetics and personal care products as essential to their lives. 84% of consumers agreed that using toiletries for cleanliness is important for improving their self-esteem (Opinium 2022).

Overview of the essential use concept

The essential use concept proposes to only allow the use of chemicals with specific hazard classifications if their use is deemed 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 (Wood 2022).

The European Commission's Chemicals Strategy for Sustainability (CSS) proposes to introduce the concept of essential use across EU chemicals legislation. Consideration of the suitability of such a concept to assist with UK chemicals management is also taking place.

CTPA does not support inclusion of an essential use concept into UK chemicals legislation and considers the concept to be fundamentally flawed.

Balancing Precaution and Proportionality

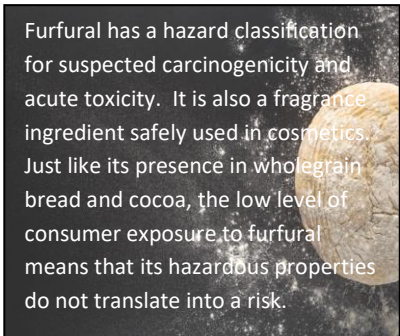
CTPA welcomes the Taskforce on Innovation, Growth and Regulatory Reform (TIGRR) recommendations which highlight the importance of proportionate regulation which protects workers, society and the environment whilst supporting innovation (TIGRR 2021).

CTPA is supportive of a correct application of the Precautionary Principle, which states that when there is a threat of serious or irreversible environmental damage, even if full scientific certainty is not available, it may still be appropriate to implement cost-effective environmental protection measures. To understand cost-effectiveness, the correct application of the Precautionary Principle therefore must also consider growth and innovation, and costs and benefits to businesses and society of regulatory measures.

The essential use concept is a misapplication of the Precautionary Principle where it is viewed as a tool to remove the absolute possibility of risk and to regulate based on hazard alone. Setting prescribed uses for chemicals means the UK may forego leading innovative solutions to environmental challenges and developing chemical products which benefit society on a daily basis.

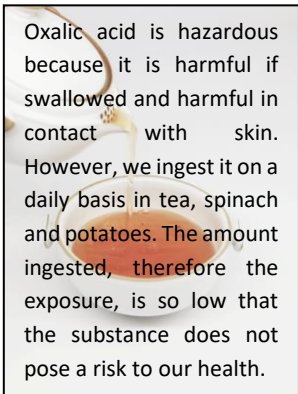
Hazardous Chemicals Can be Safe under Certain Conditions

Risk is the combination of hazard and exposure. If a chemical has a high hazard but low exposure; for example, it is contained within a sealed unit or is present in tiny quantities, it will pose a low risk.



Furfural has a hazard classification for suspected carcinogenicity and acute toxicity. It is also a fragrance ingredient safely used in cosmetics. Just like its presence in wholegrain bread and cocoa, the low level of consumer exposure to furfural means that its hazardous properties do not translate into a risk.

Regulating chemicals based on hazard and essential use, rather than risk, means that chemicals, which may in fact pose a low risk under certain controlled conditions, will be banned if their use is not considered essential to society. Society will lose access to beneficial chemicals and products with no benefit to health or the environment.



Oxalic acid is hazardous because it is harmful if swallowed and harmful in contact with skin. However, we ingest it on a daily basis in tea, spinach and potatoes. The amount ingested, therefore the exposure, is so low that the substance does not pose a risk to our health.

Challenges Presented by the Essential Use Concept

CTPA strongly supports regulatory action when there is sound scientific evidence of real harm to the environment or human health, but not where there are suggestions of possible hazard that do not translate into real-world risks.

- The essential use concept will not lead to better environmental or human health protection, which is already achieved through the UK's risk-based, outcomes-focussed legislation. It will restrict society's access to beneficial products which in some cases do not pose a risk of harm, and risks discouraging innovation and the UK's global competitiveness.
- The essential use concept risks adding additional complexity and bureaucracy to UK chemicals legislation. Understanding all downstream uses of a chemicals and whether these are considered essential will be time-consuming, complex and will divert regulators' time and resource away from managing real, identified risks.

- In practice, the concept will require policy makers to transform the subjective concept of what is essential to each individual into an objective set of criteria applicable to everyone in society. It is impossible to apply a criterion of 'criticality for the functioning of the society' without a value judgement on the products or substance use in question.
- The decision on what is essential will impact the quality, price or performance of the products consumers have access to. This is especially important for users of certain product types from particular groups in society; for example, disabled users, patients, users from a specific ethnic group or gender. It is critically important that relevant groups are identified and fully consulted. Otherwise, there is a significant danger that equalities issues will not be considered - what may not be considered essential to one group in society might be seen as essential to another. Accidental discrimination or failure to take account of equalities issues is a major risk within the concept of essential use and may incur legal challenges.
- The essential use concept does not take into account the importance of product performance when requiring an alternative chemical to be used. For example, a replacement ingredient which makes sunscreen greasier and less spreadable will mean the sunscreen does not give proper coverage and may discourage some consumers from applying it, which can increase incidences of sunburn and skin cancer.
- Alternative substances to those deemed non-essential in a product may incur their own challenges. For example, they may not have the same hazard properties but could be water-intensive to grow and/or associated with deforestation. Regulators will be required to review each proposed alternative carefully.
- An interpretation of essentiality is inherently derived from a particular cultural understanding. From a global trade perspective, this concept risks introducing measures that would not be considerate of the UK's wider global trade relationships, where a different understanding might allow the safe use of substances based on their essentiality.
- Essential use criteria will require constant updating. Society's essential needs are constantly evolving. For example, in 2019, an ingredient enabling a hand sanitiser to be as effective as possible and easy to apply may not have been considered essential. In 2020, the spread of COVID-19 increased the perception of the essentiality of hand sanitisers and their function.

Alternative Approaches to Chemical Management

CTPA supports a risk-based UK chemicals management framework where success can be measured by tangible, real-world benefits to the environment and to society, rather than a broad, hazard-based approach which unnecessarily forfeits safe and useful chemicals now and in the future. A robust, holistic chemicals management strategy takes a balanced approach which considers hazard and exposure along with the costs and benefits of the use of chemicals and chemical products to society

References

CTPA Annual Report 2021

<https://www.ctpa.org.uk/storage/annualreports/2021/#page=1>

Opinium research for CTPA. Conducted 25.02.22 – 01.03-22 on nationally representative sample of 2000 UK adults

TIGRR. 2021. “Taskforce on Innovation, Growth and Regulatory Reform Independent Report.”

<https://www.gov.uk/government/publications/taskforce-on-innovation-growth-and-regulatoryreform-independent-report>

Wood, Ramboll, European Commission “Supporting the Commission in developing an essential use concept. Workshop Report” © Wood E&IS GmbH. April 2022. Doc Ref. 807740-WOOD-RP-OP-00011_1_Final Workshop

<https://environment.ec.europa.eu/system/files/202205/Essential%20Use%20Workshop%20Report%20final.pdf>