IP News: All that glitters is not gold

While glitter may be perfect for festive make-up and adds a bit of shine to our lives, these sparkles are extremely harmful to the environment. Regulations governing cosmetics in the European Union are set to evolve, bringing new compliance obligations. Our team recognizes the challenges this transition poses for the cosmetic industry and is ready to support you in this context.

For several years, the Council has urged the Commission to propose measures to reduce plastic debris in the marine environment, including banning polymers in cosmetic products[1]. In response, the Commission adopted a plastics strategy in January 2018[2], reaffirmed in the European Green Deal[3] in December 2019, the new Circular Economy Action Plan in March 2020[4], and the Zero Pollution Action Plan in May 2021[5], with the goal of reducing microplastic pollution by 30% by 2030.

To combat this pollution whilst preserving market unity, the Commission asked the European Chemicals Agency (ECHA) to assess the risks related to microplastics which are intentionally added to products[6]. ECHA's findings advocated the introduction of a limitation[7], and armed with this scientific data, the Commission proposed a restriction under the REACH regulation[8]. This proposal garnered support from EU Member States, passed through the European Parliament and Council successfully and was ultimately adopted[9].

On 25 September 2023[10], the European Commission took a significant step towards environmental protection by adopting measures restricting the intentional use of microplastics[11] in products. This directly impacts our cosmetics, especially those using microplastics for various purposes such as exfoliants (microbeads) or for specific texture, fragrance, or colour properties[12].

In practical terms, as of 16 October 2023[13], loose glitter and products containing certain types of microbeads can no longer be sold in the European Union. Unlike our German neighbours, there's no need to rush to stock up on glitter[14]. In addition to the possibility of sourcing from the United Kingdom, where the ban does not apply, various ecological alternatives exist.

As for the glitter in our make-up products, lipsticks, and nail polish, the sales ban will take effect after an extended period of 12 years[15]. Due to the costs of formulating these products and their less significant contribution to overall plastic emissions, the 12-year transitional period before they are banned is designed to ensure an adequate timeframe for the development of suitable alternatives while limiting costs for the industry.

As mentioned earlier, the EU's goal is not to eliminate all glitter but rather to substitute it with eco-friendly alternatives, in line with the aim to make Europe the first carbon-neutral continent by 2050[16]. In this context, we offer specific expertise to guide you in adapting to the new regulations while preserving your competitiveness. From advising on developing environmentally-friendly alternatives to ensuring compliance with European standards, we can help you with ensuring that your company’s star shines bright in this glittering world. So, ready to shine while staying green?

The MOLITOR Media, Data, Technologies & IP team wishes you a Merry Christmas and a happy holiday season!

Virginie, Caroline and Ruben

[1] https://www.consilium.europa.eu/media/24073/st_7348_2017_rev_1_en.pdf

[2] Communication from the Commission to the European Parliament, the Council, the European

Economic and Social Committee and the Committee of the Regions: A European Strategy for Plastics

in a Circular Economy (COM/2018/028 final).

[3] Communication from the Commission to the European Parliament, the European Council, the Council,

the European Economic and Social Committee and the Committee of the Regions: The European Green

Deal (COM/2019/640 final).

[4] Communication from the Commission to the European Parliament, the Council, the European

Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action

Plan for a cleaner and more competitive Europe (COM/2020/98 final).

[5] Communication from the Commission to the European Parliament, the Council, the European

Economic and Social Committee and the Committee of the Regions: Pathway to a Healthy Planet for

All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' (COM/2021/400 final).

[6]Commission request of 9 November 2017 asking the European Chemicals Agency to prepare a

restriction proposal conforming to the requirements of Annex XVII to REACH.

https://echa.europa.eu/documents/10162/5c8be037-3f81-266a-d71b-1a67ec01cbf9

[7]https://echa.europa.eu/documents/10162/db081bde-ea3e-ab53-3135-8aaffe66d0cb

[8] https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A02006R1907-20140410

[9]https://single-market-economy.ec.europa.eu/system/files/2023-09/C_2023_6419_F1_COMMISSION_REGULATION_UNDER_ECT_EN_V5_P1_2620969.PDF

[10]https://france.representation.ec.europa.eu/informations/protection-de-lenvironnement-et-de-la-sante-la-commission-adopte-des-mesures-pour-limiter-les-2023-09-25_fr

[11] Microplastics include all organic particles of synthetic polymers less than 5 mm in size, insoluble and resistant to degradation.

[12]Recital 21 - C(2023) 6419 - Commission Regulation (EU) …/… amending Annex XVII to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards synthetic polymer microparticles.

[13]Article 2 - C(2023) 6419 - Commission Regulation (EU) …/… amending Annex XVII to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards synthetic polymer microparticles.

[14] https://www.forbes.fr/politique/interdiction-des-paillettes-en-europe-lue-sattaque-aux-plastiques/

[15]Recital 35 - C(2023) 6419 - Commission Regulation (EU) …/… amending Annex XVII to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards synthetic polymer microparticles

[16]https://www.consilium.europa.eu/en/policies/green-deal/#:~:text=The%20European%20Green%20Deal%20is%20a%20package%20of%20policy%20initiatives,a%20modern%20and%20competitive%20economy.