



POLICY

Expert analysis: EU Commission's communication on Essential Use

Last week, the EU Commission sent out a communication on the concept of Essential Use. We gave three of our policy experts the task of reading the text inside and out, leaving no stone unturned. Here is what stood out for them.

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First of all, the **communication** that the EU Commission published last week was long-awaited. According to the Chemical Strategy for Sustainability, it should've come already two-three years ago. But the wait has not been in vain.

The Commission's communication on the concept of *Essential Use* recalls important commitments of the Chemical Strategy and clarifies both the need to phase out the most harmful substances and the fact that no use can be considered essential if alternatives are available.

Positive takeaways

The focus on preventing harm from the most harmful substances is crystal clear, leaving no room for misinterpretations — let's start with that. This is hugely important.

So is the fact that the Commission uses adequate terminology when trying to come to grips with the concept. *Essential use* ultimately boils down to the fundamental question: "When is it justified to use the most harmful substances?". The communication is spot-on in here.

"Nothing can be considered Essential Use if safer alternatives are available"

The Commission also makes it clear that nothing can be considered "essential use" if safer alternatives are available. Not even if the use is in the healthcare sector (which has sometimes been argued as a cause for exemption).

The simple fact that something is deemed "essential for society" is not a get-out-of-jail-free card. That should only be possible when there are no available alternatives — and only until safer alternatives are available.

Speaking of alternatives, the communication mentions several times that safer alternatives are not limited to drop-in replacements of one chemical with another. Instead, the alternative solution can be anything providing a sufficient replacement of the function, including other products and materials. It could also be completely different technologies and processes, for that matter. If society can accept the function and level of performance, it's enough. Bravo!

Issues of concern and possible pitfalls

The criteria regarding what is considered essential for health or safety, as well as what is deemed critical for the functioning of society are very broad. It is extremely important that not entire industry sectors — such as healthcare, food packaging or defence — are exempted from the concept. The idea of essential use rather applies to specific uses within those sectors. Thankfully, there's no need for concern since the communication emphasises that each use will undergo assessment.

An aim of the essential use concept is to make decision-making faster and more efficient. But if done wrong, it could go the other way. If it ends up too complex, then there's a real risk of “paralysis by analysis” and even more delayed decisions.

One way to combat this would be to all together filter out certain product groups from the essential use concept. An obvious example of an industry where the use of harmful chemicals can never be justified is cosmetics. Unfortunately, the communication does not make any mention of non-essential uses or (sub-)sectors.



“It’s one thing to put nice words down on a piece of paper, and another thing to put them into practice”

The communication states that existing feasibility assessments of alternatives shall be used. However, that might be a problem. The alternatives assessment process has not exactly been a success story in REACH. The visibility of alternatives and the perspective of solution providers have, for instance, not been sufficiently included nor introduced into the process early enough. This needs to be fixed as it will be very important going forward (and not only in terms of essential use).

But, on a more positive note, the communication states that assessments shall be done “per use” instead of “per user”, which would be an improvement at least compared to the inadequate way these assessments have been implemented so far under the REACH Authorisation scheme.

For the essential use concept to work, it would need to be progressively introduced into all relevant legislation. To achieve this, we need an improved system to assess alternatives where we recognise the availability of alternative solutions and do not get stuck in paralysis by analysis. If done correctly, this will be a much-needed paradigm shift.

Overall, the communication from the EU Commission on the essential use concept looks pretty good. But it's one thing to put nice words down on a piece of paper, and

another thing to put them into practice. In the end, it will all come down to how the concept is implemented. That's the most important part.

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