VNO NCW

Mr. Karmenu Vella
Commissioner for Environment, Maritime and Fisheries
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels

Reference number
18/10.147/Stre/MK

The Hague
February 28, 2018

Dear Mr. Vella,

The CLP-classification and labelling TiO2 as category 2 carcinogenic has some serious consequences for consumers and companies that we will point out in this letter. Though CLP-classification of substances can be seen as a technical exercise, it is in our view important to realize such consequences before deciding on classification. Through this letter, we want to ask you to consider our proposal for a possible solution for the problem we foresee.

Effects of labelling TiO2

The problem is that after classifying TiO2 as category 2 carcinogenic, according to current legislation products such as paints, coatings and printing inks automatically must be labelled as suspected carcinogenic. This labelling has to be done, while there is in fact no actual risk of exposure and in fact no carcinogenic effect or risk. TiO2 is used in plastic products and paper as well.

You can imagine that such a label causes confusion for downstream companies and consumers, since they are unable to make a proper distinction between hazard, risk and exposure. Misinterpretation of labels by companies and consumers may very well undermine the goals of CLP, REACH and the Occupational Safety and Health legislation to protect the environment and human health.

In the stage of waste according to their classification and labelling, these products have to be treated as 'hazardous waste' while there is no actual risk of exposure to the pure form. This puts an unnecessary burden on high end re use and the ambitions of a circular economy in Europe.

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TiO2 is the first substance to be assessed by the RAC, but represents a whole group of poor soluble low toxicity (PSLT) substances. This classification of TiO2 therefore is not just an 'isolated' case, but other PSLT substances could receive similar labels. We ask for more time in the classification process to make a proper decision and to use more often suitable policy instruments for (pure) substances that are (in future) categorized by the RAC.

Possible solution

After the scientific assessment policy makers should consider the most proper instrument to enhance a correct implementation of the proposed classification. We therefore propose that an assessment of the policy framework is inserted in the procedure after the classification process. The policy framework could include a social economic analysis that the Commission and member states (MS) can use as an instrument to decide which legal instrument would provide the optimal solution to protect the environment and human health appropriate to the proposed category of the RAC. Scientific findings should be dealt with in a smart way. Within our proposal we refer to the RMOA process that was added to REACH and has now proven its added value.

In the case of TiO2 the highest risk in the total chain occurs when TiO2 is used and mixed with other chemicals and may cause an occupational health and safety (OSH) risk for workers. This risk can be minimized using adequate OSH measures, possibly in combination with an occupational exposure limit that companies must meet.
Such a policy framework, in analogy with RMOA, avoids unnecessary labels on products targeting companies and consumers who are not at risk.

In other words, the *current* situation is a one way direction from classification to labelling, whereas we propose to insert a '*roundabout*', with exits to different policy instruments to do justice to the observed hazard in relation to the risk of exposure to people and the environment.

We are of course prepared to explain the proposal and we remain at your disposal for further elaboration on this matter.

With kind regards,

[redacted]

Mr. J. de Boer
Chairman