UEIL position on notification to Poison Centres

UEIL hereby wishes to set out its position on the submission of harmonised information for Poison Centres according to CLP Annex VIII (Commission Regulation (EU) 2017/542), in relation to certain specific issues discussed in the 25th meeting of CARACAL (15-16 November 2017) and in the ECHA guidance workshop of 5 December 2017. It should be noted that this is not an exhaustive position on all remaining implementation issues, some of which are to be addressed through (*inter alia*) the PEG consultation on the guidance and the Commission's planned workability study, but addresses two of the most urgent points identified by UEIL concerning the process of submission.

Use of the central notification portal

As noted in its written comments on CARACAL document CA/84/2017 rev.1, UEIL fully supports the establishment of a central European notification portal, hosted by ECHA, to receive and distribute submissions from companies placing mixtures on the market. UEIL therefore notes with pleasure that ECHA will develop such a portal in 2018, as recorded in the preliminary conclusions of the ECHA Management Board meeting of 14-15 December 2017.

The European Commission stated in CA/84/2017 rev.1 that it is in the competence of each Member State to decide whether to accept submissions only through the ECHA notification portal, through both the ECHA and alternative (national) portals or only through its own national portal. **UEIL urges all Member States to accept submissions made through the ECHA portal**, whether as the sole route or as an option in parallel to a national portal. Refusal to accept submissions from the central portal would increase the administrative burden for a very significant number of duty holders and have a highly detrimental impact on the effectiveness of implementation of Annex VIII.

If any Member States should nonetheless still intend not to accept submissions via the portal, **it is imperative that these intentions be communicated as soon as possible**. Economic operators will need additional IT interfaces and processes in parallel to those for the central notification portal, and this will naturally require additional time and resources (which are already under considerable pressure in order to meet the first deadline of 1 January 2020).

CLP Annex VIII "*sets out the requirements that importers and downstream users … shall fulfil in respect of the submission of information so that appointed bodies shall have at their disposal the information to carry out the tasks for which they are responsible under Article 45*" (Part A Section 2.1). These include the provision contained in Part A Section 3.1 (emphasis added):

"***Before placing mixtures on the market**, submitters shall provide information relating to mixtures classified as hazardous on the basis of their health or physical effects to the bodies appointed under Article 45(1) (hereinafter "appointed bodies"), in the Member State or Member States where the mixture is placed on the market.*"

Part A Section 3.2 then goes on to state that submitters shall provide any necessary information or clarification in the event of a 'reasoned request' from an appointed body following receipt of a submission under Section 3.1. The Regulation however does not specify any obligation on duty holders to await permission from appointed bodies to place the mixture on the market; indeed in

many cases this is totally impractical, as lubricants are often formulated on demand (and thus notified) immediately before they are to be placed on the market. Any such delay threatens to cause major disruption to supply chains. Moreover a patchwork of different Member State requirements in this respect would significantly undermine the intended harmonisation and represent a serious impediment to the free movement of goods on the internal market. In addition, raw materials for lubricant production (e.g. base oils) often vary in composition, although having the same hazard classification. Regulation request a notification in this case which is rather difficult.

Tolerances on mixtures proposed under the regulation were too narrowly defined for the business of blending lubricants (which is not an exact science), so that the end result is that every batch of blended lubricants was at risk of being reported to the NPC as it could fall outside the tolerances. For example, the exchange of base oils may require a new notification although the hazard level remain unchanged. This may create additional bureaucratic burden, and in case of the lubricant industry, a very high number of additional notifications without benefit for health and safety.

For successful implementation of Annex VIII it is very important that clearance to place a mixture on the market is dependent only on the submission **via the ECHA portal** passing a set of automated business rules adequately reflecting the essential requirements of Annex VIII (to be developed in the working group on IT Tools). Other Member State requirements, such as payment of fees or the submission of additional information required under other (national) legislation, should be handled after placing on the market and/or through separate mechanisms, which can naturally also be subject to enforcement activities.

Finally, UEIL ask ECHA to do everything needed to keep the formulations of the lubricant industry confidential. A database with detailed formulation information is an obvious target for industrial espionage.