*November 2023*

**Revision of the Urban Wastewater Treatment Directive (UWWTD)**

**Cosmetics Europe input ahead of inter-institutional negotiations**

Ahead of the upcoming trilogues, we would like to express the concern that the proposed Extended Producer Responsibility (EPR) system risks to **infringe core principles stated in the Treaty of the EU**, such as polluter pays, proportionality and non-discrimination, and ultimately to **fail its main objective of providing incentives to producers to improve their environmental footprint**. In this regard, we bring the attention to the inaccuracy of the Commission proposal’s impact assessment regarding the identification of the sources of micropollutants in the water environment to define an EPR system.

The first and main concern of the cosmetic sector relates to the policy decision to single out pharmaceuticals and cosmetics as only polluting sectors, hence financial contributors to upgrade wastewater treatment plants – i.e., sectoral approach. The impact assessment (EPR feasibility report) does not provide a solid methodology and evidence to substantiate the claim that the cosmetic sector is the second largest polluter. Actually, a JRC study analysing the same list of substances than the EPR feasibility study, leads to quite different results and demonstrates that cosmetic ingredients are a minor part of the polluting substances found in wastewater after the third stage of treatment. Amongst the 50 substances mentioned in the study which account for almost the total toxic load of water environment, only 7 are potentially used in cosmetics (and are used in other sectors as well). The share of cosmetics to the overall toxic load accounts around 1%. This sectoral approach not being scientifically justified would have counterproductive effects on targeting efficiently water pollution since many sources will be disregarded. Therefore, an approach based on substances, regardless sectors, would ensure that all polluters are duly identified and bear the financial burden of the upgrade according to their respective input to the total toxic load to water pollution (see below).

Considering the above, **Cosmetics Europe** would like to put forward the following recommendations:

* Removing the reference to the two sectors in Annex 3 and defining, through a delegated act, a list of micropollutants to be included in the Directive.

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| The list should include those substances that cannot be removed through the first three treatment stages. The list used by JRC in its study could be taken as a basis for the Commission to establish the list of micropollutants and could be regularly updated. EPR schemes would then not be based on sectors, but rather on relevant substances (i.e., micropollutants) and every polluter, regardless the economic sector, will contribute financially based on the amount of micropollutants contained in the products it places on the market. This unambiguous identification of polluting substances, hence producers, will ensure non-discrimination, proportionality, legal certainty, and a harmonised application of the EPR system within the internal market, avoiding any risk of fragmentation that could occur from the implementation of flawed sector based EPR schemes at national level. |

* Including in the scope of the definition of micropollutants (art. 2(16)) only the relevant substances triggering a need for upgrading wastewater treatment plants to fourth stage.

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| The proposed CLP criteria (parts 3 and 4 of Annex I to CLP regulation) to identify micropollutants are too broad. In fact, many substances, although classified with a chemical hazard, are removed from the wastewaters through the three treatment stages (biodegradable substances). Substances that do not pose a risk to human health or the environment at low concentrations should not be included in the scope of the definition. Several hazards, in particular for human health, can only manifest at higher concentrations than those in wastewater effluents. Only few hazard categories can potentially lead to damage at low concentrations. These relevant hazard categories should be the basis for the definition of micropollutants. We therefore recommendlimiting the CLP criteria to Parts 3.5, 3.6, 3.7, 3.9, 3.11 and Part 4 of Annex I to CLP regulation. |

* Clarifying that EPR only finances investment costs.

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| The costs for upgrading the wastewater treatment plants to the fourth stage should only refer to the investments; operational costs should not be financed through EPR. |

* Clarifying the scope of secondary legislation related to EPR.

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| It is not clear if the secondary legislation in relation to EPR will only cover the exoneration criteria from the EPR obligation (art. 9(3)) or other aspects as well. |

Furthermore, Cosmetics Europe:

* Supports the deadline for the implementation of the EPR system, as proposed by the Council (by the third year from the entry into force of the Directive) – art. 9(1).
* Supports the proposal by the Parliament to exonerate from the EPR obligation those producers that place on the markets products and substances that are rapidly biodegradable according to Part 4.1.2.9.5 of Annex I to CLP regulation – art. 9(2)(b)/ AM 116 and 117.
* Supports the deadline for the Commission to adopt implementing acts to establish detailed criteria on the uniform application of the exoneration criteria laid down in art. 9(2)(b) to specific categories of products and their hazardousness, as proposed by the Council (by the second year from the entry into force of the Directive) – art. 9(3).
* Supports the clarification that the EPR contribution for each producer is determined based on the quantities and hazardousness of the substances contained in the products placed on the market, as proposed by the Council – art. 9(4)(c).