



DUCC



Downstream Users of Chemicals Co-ordination group

Industry Guidance at a Glance: Raising awareness of CLP obligations in the supply chain

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DUCC – Two Quick Words

DUCC is the **D**ownstream **U**ser of **C**hemicals
Co-ordination Group

A platform of 11 European associations which represent “downstream” industries who formulate mixtures.

DUCC members collectively represent:

- more than 9,000 companies in Europe
- most of which are SMEs
- collective turnover: > € 215 billion*



Downstream Users of Chemicals Co-ordination group

Objective: to contribute, with a common voice, to the successful implementation of the requirements of the REACH and CLP Regulations.

DUCC – Two Quick Words

Adhesives & Sealants



Detergents



Aerosols



Fragrances



Chemical Distributors



Lubricants



Construction Chemicals



Inks & Toners



Cosmetics



Paints



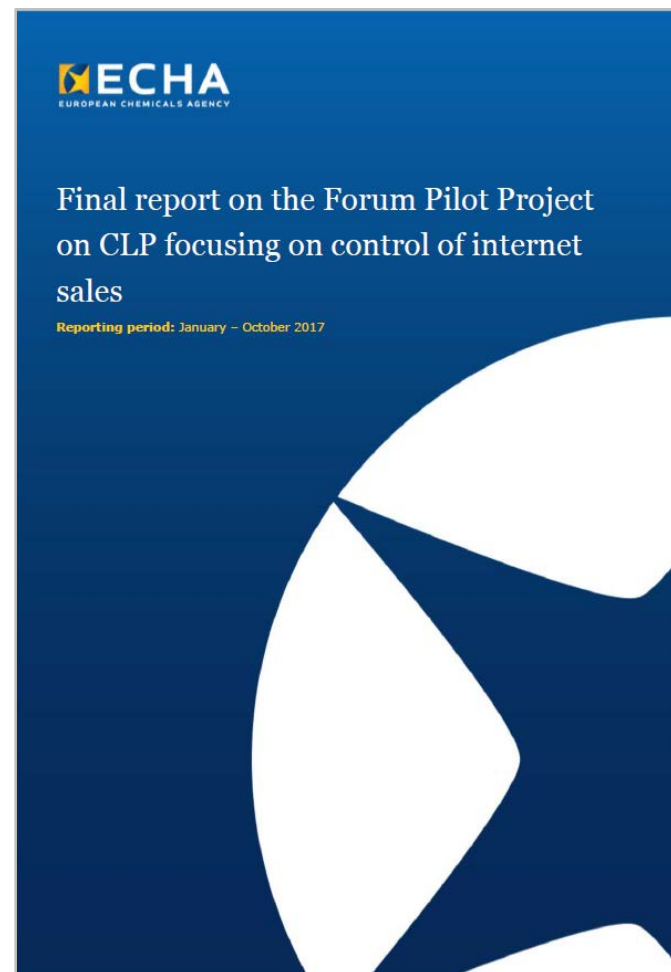
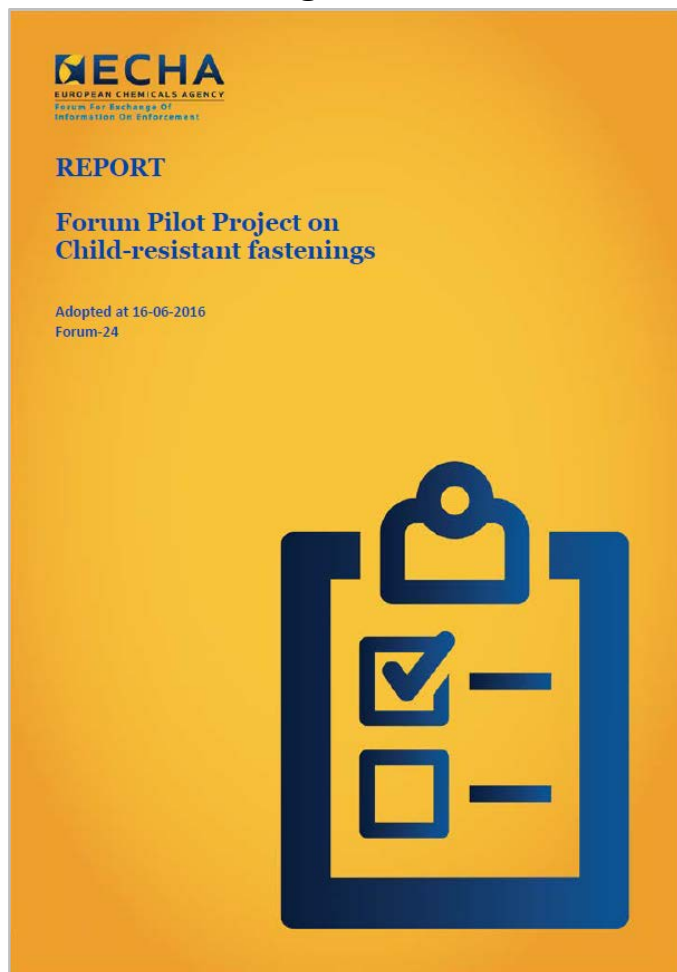
Crop Protection



10 ECHA Accredited Stakeholder Organisations.

Why Industry Guidance?

Forum's activities suggests a lack of awareness among (some) regarding their obligations under chemicals legislation...



Why Industry Guidance?

Examples highlighted by the Forum include...

Forum Pilot Project on child-resistant fastenings

Forum Pilot Project on control of internet sales

There was a total of 85 cases of products (83 products with re-closable packaging and 2 products with non re-closable packaging), for which a certificate was requested but not provided within the timeframe of the project.

The information on the hazard statements provided is not complete (e.g. H-codes instead of phrases)

Of these, 69 products were not fitted with a TWD and in 8 cases even though the TWD existed, it was not prominent on the surface of the packaging.

The text of the hazard statements is not in the official language of relevant MSs which are addressed with the Article 48(2) advertisement

In the course of the project the inspectors received a total of 519 certificates⁵ for re-closable and non-re-closable packages. 63 of these certificates were issued by laboratories which were not accredited according to EN ISO/IEC 17025.

Inspectors also found that more than one product was non-compliant on the same supplier internet site in 78.2% of cases checked.

...these issues are important, but they are often very granular cases of non-compliance...

Why Industry Guidance?

...which are occurring in significant numbers...

Forum Pilot Project on child-resistant fastenings

Forum Pilot Project on control of internet sales

A total of 230 products (29%) were found to be non-compliant with the obligations on packaging of Article 35 (2) of CLP and the requirements for classification and labelling necessary to establish the need for CRF. In many cases, products were non-compliant for more than one reason.

1 314 inspections were completed. In 1 083 cases (82.4 %), non-compliance with the requirements of Article 48(2) of CLP was detected.

	Amount of inspected mixtures	%
Non-compliance	1 083	82.4
Compliance	210	16.0
Suspected ¹⁴	21	1.6
Grand Total	1 314	100 %

Why Industry Guidance?

...despite ECHA providing ample guidance to supplement the legal text:

02008R1272 — EN — 01.03.2018 — 010.001 — 1

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document.

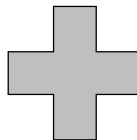
REGULATION (EC) No 1272/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 16 December 2008
on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006
(Text with EEA relevance)
(OJ L 353, 31.12.2008, p. 1)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Regulation (EC) No 790/2009 of 10 August 2009	L 235	1	5.9.2009
►M2	Commission Regulation (EU) No 286/2011 of 10 March 2011	L 83	1	30.3.2011
►M3	Commission Regulation (EU) No 618/2012 of 10 July 2012	L 179	3	11.7.2012
►M4	Commission Regulation (EU) No 487/2013 of 8 May 2013	L 149	1	1.6.2013
►M5	Council Regulation (EU) No 517/2013 of 13 May 2013	L 158	1	10.6.2013
►M6	Commission Regulation (EU) No 758/2013 of 7 August 2013	L 216	1	10.8.2013
►M7	Commission Regulation (EU) No 944/2013 of 2 October 2013	L 261	5	3.10.2013
►M8	Commission Regulation (EU) No 605/2014 of 5 June 2014	L 167	36	6.6.2014
►M9	amended by Commission Regulation (EU) 2015/491 of 23 March 2015	L 78	12	24.3.2015
►M10	Commission Regulation (EU) No 1297/2014 of 5 December 2014	L 350	1	6.12.2014
►M11	Commission Regulation (EU) 2015/1221 of 24 July 2015	L 197	10	25.7.2015
►M12	Commission Regulation (EU) 2016/918 of 19 May 2016	L 156	1	14.6.2016
►M13	Commission Regulation (EU) 2016/1179 of 19 July 2016	L 195	11	20.7.2016
►M14	Commission Regulation (EU) 2017/776 of 4 May 2017	L 116	1	5.5.2017

Corrected by:

- C1 Corrigendum, OJ L 16, 20.1.2011, p. 1 (1272/2008)
- C2 Corrigendum, OJ L 138, 26.5.2011, p. 66 (288/2011)
- C3 Corrigendum, OJ L 349, 21.12.2016, p. 1 (1272/2008)



Why Industry Guidance?

This available information doesn't seem to be benefiting non-traditional supply chain actors or SMEs...

Forum Pilot Project on child-resistant fastenings

Forum Pilot Project on control of internet sales

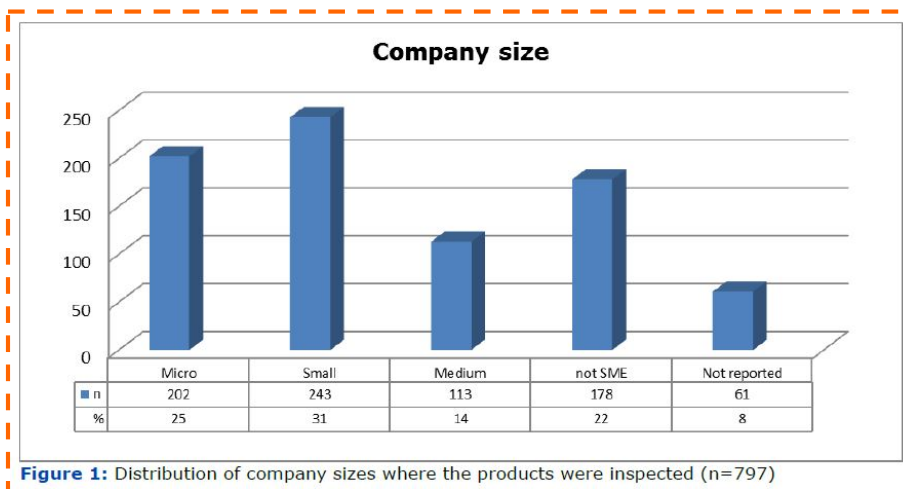


Figure 1: Distribution of company sizes where the products were inspected (n=797)

Company size category	Number of suppliers	% (N = 1 314)
Micro	283	21.5
Small	163	12.4
Medium	117	8.9
Σ SME	563	42.8
Non-SME	119	9.1
Not known	632	48.1

Company role	Number of products inspected
Distributor	646
Retailer	496
Wholesaler	184
Other	6
Downstream user	218
Formulator	162
Re-filler/Re-packager	70
Re-importer	1
Manufacturer	56
Importer	16

Note that companies could fulfill multiple roles.

NACE category	Number of companies	Proportion of companies (N = 829)
Manufacturing of chemicals and chemical products	75	9%
Wholesale and retail trade	746	90%
Others	8	1%


The Current Situation?



Industry can (and wants to) help improve matters.

Industry Guidance at a Glance

As a first step DUEG has prepared:



Downstream Users of Chemicals Co-ordination group

CHILD RESISTANT FASTENINGS

Industry Guidance at a Glance

All chemical substances and mixtures placed on the European market need to be classified, labelled and packaged according to the hazard posed to humans and the environment. The rules set out in the Classification Labelling and Packaging (CLP) Regulation¹ help to protect humans and the environment by ensuring that users of chemicals are informed about hazardous properties in a consistent and harmonised manner.

Depending on the hazard of a chemical and where it is used, special requirements may be required to enhance protection for the user and vulnerable members of society. Child Resistant Fastenings (CRF) are an example of a special packaging requirement that help to protect vulnerable people (i.e. young children) when particularly hazardous chemicals are made available to the general public.

CLP – TO WHOM DOES IT APPLY?

CLP relates to chemicals placed on the European market. As a result, CRF obligations may apply to importers, formulators, re-fillers/re-packagers/re-labellers of chemicals but also in certain cases to retailers, wholesalers, distributors who supply chemicals to the general public.

WHAT TYPE OF CHEMICALS REQUIRE A CRF?

CLP also requires that if a supply chain actor obliged to use a CRF, the supplier must:

- obtain and retain evidence of conformity with the applicable standards.
- evidence of conformity can only be obtained from testing laboratories which confirm to Standard ISO/IEC 17025 (as amended)
- this evidence should be readily available in an appropriate European language.

Conformity certificates may be subject to inspection by enforcement authorities. Derogation from these requirements may be possible in specific cases.


CFR - THE BASICS:

As well as requiring the use of a CRF, CLP also prescribes standards for CRFs, specifically:

- For reclosable packages: the CRF must comply with ISO standard 8317
- For non-reclosable packages: the CRF must comply with ISO standard 862

CLP also requires that a supply chain actor obliged to use a CRF must also obtain and retain evidence of conformity with the applicable standards. This evidence can only be obtained from testing laboratories which confirm to Standard ISO/IEC 17025 (as amended) and should be readily available in an appropriate European language. Conformity certificates may be subject to inspection by enforcement authorities. Derogation from these requirements may be possible in specific cases.

1 Regulation (EC) No. 1272/2008, see: <https://echa.europa.eu/en/regulations/clp/regulation>



Downstream Users of Chemicals Co-ordination group

ONLINE SALE OF CHEMICAL MIXTURES

Industry Guidance at a Glance

All chemical substances and mixtures supplied in Europe need to be classified, labelled and packaged according to the hazard they pose to humans and the environment. The rules set out in the Classification Labelling and Packaging (CLP) Regulation¹ help to protect humans and the environment by ensuring that users of chemicals are informed about hazardous properties in a consistent and harmonised manner. For chemicals supplied to the general public hazard information is communicated via the on-pack label.

When a hazardous mixture is made available for sale to the general public and they cannot see the on-pack label in advance of purchase (e.g. internet sale), the CLP Regulation requires that the purchaser receives hazard information via the advertisement of sale. Consequently, CLP online sales obligations may apply to a broad range of advertisers such as importers, formulators, re-fillers/re-packagers/re-labellers, retailers, wholesalers or distributors who sell hazardous mixtures to the general public.

HAZARD INFORMATION ON LABEL

If a chemical is hazardous it is assigned one or more hazard classes (e.g. flammability) and a hazard category (e.g. Category 1, 2 or 3) to quantify the severity of the hazard. This information must be reported using the on-pack label, which must include (where applicable):

- Hazard pictogram(s)
- Signal word(s)
- Hazard statement(s)
- Precautionary statement(s)
- Supplementary information (e.g. supplemental hazard statements, UFI, etc.)

The label must also be written in the official language of the country where the substance/mixture is placed on the market (unless otherwise specified). The label can be in multiple languages provided the same details appear in all languages used.

CLP ONLINE SALES REQUIREMENTS

CLP requires that if a mixture is advertised for sale to the general public (without the public having sight of the mixture label) and if the mixture is either:

- hazardous according to CLP
- OR
- is itself not classified according to CLP but contains a substance(s) classified as hazardous, triggering special labelling rules

The advertisement must mention the type(s) of hazard indicated on the mixture label. All online advertisements of mixtures should include all relevant hazard statements and supplemental hazard statements.

The European Chemicals Agency recommends that online advertisements also clearly display:


- Hazard pictogram(s)
- Signal word

Hazard information must be clearly visible and reported in the appropriate European language in advertisements. European authorities report that in an advertisement it is sufficient to provide either:

- a visible and legible image of hazard information on the product label
- OR
- both a product description (meeting CLP requirements) and a suitable image of a product label.

European Authorities also report² that to meet CLP online sales requirements it is not sufficient only to provide a link from an advertisement to the product Safety Data Sheet (SDS).

1 Regulation (EC) No. 1272/2008, see: <https://echa.europa.eu/en/regulations/clp/regulation>
2 European Chemicals Agency's Forum, (2018) Report – Forum Pilot Project on CLP: Focusing on Control of Internet Sales, Helsinki: ECHA



Downstream Users of Chemicals Co-ordination group

TACTILE WARNING OF DANGER

Industry Guidance at a Glance

All chemical substances and mixtures supplied in Europe need to be classified, labelled and packaged according to the hazard they pose to humans and the environment. The rules set out in the Classification Labelling and Packaging (CLP) Regulation¹ help to protect humans and the environment by ensuring that users of chemicals are informed about hazardous properties in a consistent and harmonised manner.

Depending on the hazard of a chemical and where it is used, special requirements may be required to enhance protection for the user and vulnerable members of society. Tactile Warning of Danger (TWD) are an example of a special packaging requirement that help to protect vulnerable people (i.e. the blind or partially sighted) when particularly hazardous chemicals are made available to the general public.

CLP - TO WHOM DOES IT APPLY?

CLP relates to chemicals placed on the European market. As a result, TWD obligations may apply to importers, formulators, re-fillers/re-packagers/re-labellers of chemicals but also in certain cases to retailers, wholesalers, distributors who supply chemicals to the general public.

WHAT TYPE OF CHEMICALS REQUIRE A TWD?

Under CLP a chemical that is supplied to the general public must be packaged with a TWD (regardless of package capacity) if that chemical is classified for one or more of these hazards:

- Acute toxicity
- Skin Corrosion
- Toxic to specific organ(s) – Repeated/Single Exposure (STOT RE/SE)
- Respirator sensitisation
- Aspiration hazard (excluding aerosols or packaging with a sealed spray attachment)
- Germ cell mutagenicity (category 2)
- Carcinogenicity (category 2)
- Reproductive toxicity (category 2)
- Flammable gases (including chemically unstable gases)
- Flammable liquids (category 1 and 2)
- Flammable solids

Note: A TWD is not required on flammable or non-flammable aerosols which are not classified in the above hazards

TWD - THE BASICS

As well as requiring the use of a TWD, CLP also prescribes that the TWD conforms to ISO standard 11688. It is recommended that a supply chain actor obliged to use a TWD also obtains and retains evidence of conformity with this standard. This evidence should be readily available in an appropriate European language. Conformity certificates may be subject to inspection by enforcement authorities.

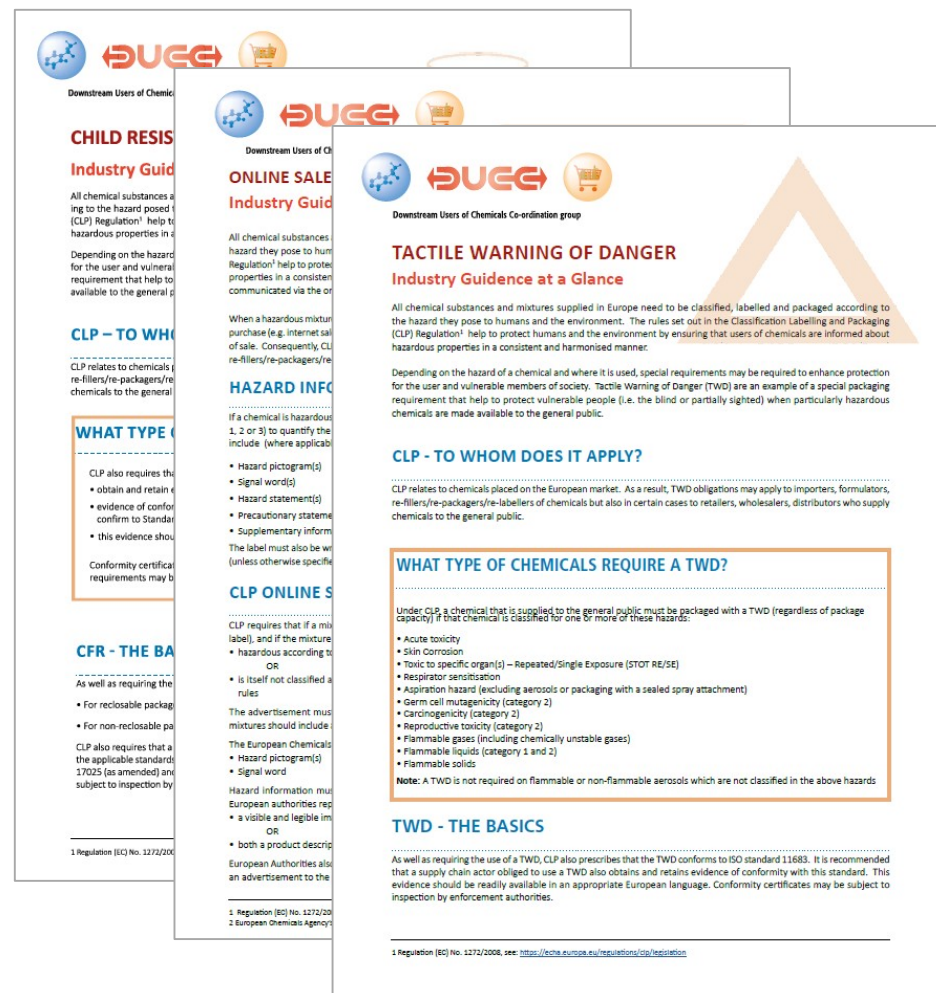
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Builds on A.I.S.E. texts presented to Forum members following Forum-31.

Industry Guidance at a Glance

These high-level leaflets:

- Address an audience unfamiliar with chemical control legislation
- Introduce CLP (and related obligations)
- Promote consideration of the readers own obligations (if applicable).
- Direct the reader to official sources of information (legal text & ECHA guidance).



CHILD RESISTANT
Industry Guidance at a Glance

All chemical substances and mixtures supplied in Europe need to be classified, labelled and packaged according to the hazard they pose to humans and the environment. The rules set out in the Classification Labelling and Packaging (CLP) Regulation¹ help to protect humans and the environment by ensuring that users of chemicals are informed about hazardous properties in a consistent and harmonised manner.

Depending on the hazard for the user and vulnerable members of society, special requirements may be required to enhance protection for the user and vulnerable members of society. Child Resistant Packaging (CRP) is an example of a special packaging requirement that help to protect vulnerable people (i.e. the blind or partially sighted) when particularly hazardous chemicals are made available to the general public.

CLP - TO WHOM DOES IT APPLY?

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WHAT TYPE OF CHEMICALS REQUIRE A CRP?

CLP also requires that:

- obtain and retain evidence of conformity with the standard
- this evidence should be available to the general public

Conformity certificates may be required.

CFR - THE BASICS

As well as requiring the use of a CRP, CLP also prescribes that the CRP conforms to ISO standard 11683. It is recommended that a supply chain actor obliged to use a CRP also obtains and retains evidence of conformity with this standard. This evidence should be readily available in an appropriate European language. Conformity certificates may be subject to inspection by enforcement authorities.

ONLINE SALE
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Depending on the hazard for the user and vulnerable members of society, special requirements may be required to enhance protection for the user and vulnerable members of society. Online Sale (OS) is an example of a special packaging requirement that help to protect vulnerable people (i.e. the blind or partially sighted) when particularly hazardous chemicals are made available to the general public.

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¹ Regulation (EC) No. 1272/2008, see: <https://echa.europa.eu/regulations/clp/regulation>

Industry Guidance at a Glance

These documents seek to address Forum's recommendations to Industry. Specifically:

Forum Pilot Project on child-resistant fastenings

Forum Pilot Project on control of internet sales

Stakeholder organisations should ensure sufficient support and guidance on the labelling and packaging of hazardous chemicals focusing on small and micro businesses.

Awareness of the requirements of Article 35(2) should be increased amongst retailers and distributors. Improving the knowledge of these sectors on the importance of child resistant packaging and the need for tactile warnings of danger should be a focus for the relevant industry sectors.

To raise awareness that standards EN ISO 8317 for re-closable and EN 862 for non-re-closable packaging must be certified by a laboratory conforming to EN ISO/IEC 17025 and that only those products which are fully in compliance with the relevant standards may be placed on the market for the general public.

Industry and trade associations could develop common strategies to clarify what is a lawful sale on the internet. For this purpose, a collection of positive examples could also be compiled by industry and distributed to associations for the information of the companies concerned.

Why DUCC Guidance?

Whilst originally an A.I.S.E. initiative, the issues highlighted by the Forum are cross sectorial...

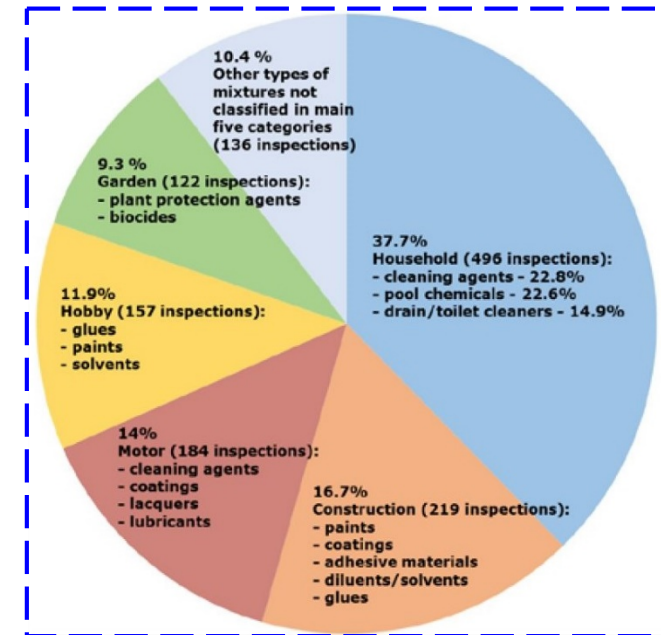
Forum Pilot Project on child-resistant fastenings

Forum Pilot Project on control of internet sales

Type of product	Number of products inspected
Other: e.g. disinfectants, bleach, lamp oil, diluent, metal/surface strippers	233
Drain cleaner	173
Oven/window/surface cleaner	134
Toilet cleaner	94
Solvent	64
Motor vehicle product	41
White spirits	40
Grill/lighter fluid	28
Windshield washing fluid	13
Paint product	13
Laundry detergent (powder or liquid)	11
Washing up liquid	3
Adhesive/glue	3

Company role	Number of products inspected
Distributor	646
Retailer	496
Wholesaler	184
Other	6
Downstream user	218
Formulator	162
Re-filler/Re-packager	70
Re-importer	1
Manufacturer	56
Importer	16

Note that companies could fulfill multiple roles.



...and require collaborative solutions...

...particularly as most online platforms are cross sectorial.



DUCC



Downstream Users of Chemicals Co-ordination group

Thank you for your
attention.

Questions/Feedback?

Contact:

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