

Keep the generic approach to risk management up to the CSS level of ambition

EEB overarching demands to implement a generic approach to risk management - Comments to CARACAL

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In the Chemicals Strategy for Sustainability, the Commission committed to “extend the generic approach to risk management to ensure that consumer products (...) do not contain chemicals that cause cancers, gene mutations, affect the reproductive or the endocrine system, or are persistent and bioaccumulative”. The Commission also pledged to assess the inclusion of further properties chemicals “affecting the immune, neurological or respiratory systems and chemicals toxic to a specific organ”.

CSS promises to fix a situation that should have never happened, the presence of very hazardous chemicals such as carcinogens or EDCs in everyday products. To protect vulnerable populations, achieve a toxic-free environment and a Zero-Pollution ambition, GARM must be applied ambitiously. To avoid diluting the ambition of its original commitment the Commission must:

1. Apply GARM in an automatic way

The European Commission’s intention to apply GARM on a case by case subject to its own willingness to do so is not aligned with the chemicals strategy.

The CSS promise is to ban the most harmful chemicals in consumer products as a **default option**. An optional decision by the Commission on which chemicals, which products will be restricted and when under 68.2 is by no means a default option, it is the **status quo**, well known to have largely failed to avoid the most hazardous chemicals entering in everyday products.

According to the EEB, a default option means an automatic ban similar to the existing ones in the toys or cosmetics laws. The starting point is the CSS commitment but the COM proposes options that undermine this baseline e.g. assumes that not all products will be detoxified, mixtures and substances.

2. Maintain GARM as a hazard-based methodology to urgently phase-out the most hazardous chemicals in products

GARM is aimed at accelerating and simplifying control thanks to a generic approach, that is considering its “generic use”, i.e. by consumers, professionals. The basic foundation of a GARM is hazard-based, restricting chemicals based on their (hazardous) intrinsic properties. The aim is precisely to avoid specific exposure assessments (assessing the risks of detailed exposures), which requires often unavailable data and more time to adopt concrete measures. According to an EEB unpublished analysis, to put control measures in place (i.e. Restriction and Authorisation processes) under REACH requires, on average, five and a half to nine and half years but in some cases it could take as long as 13 years.

The ultimate aim is to speed-up regulatory control and lower the burden for authorities in order to improve the protection of health and the environment.

If the spirit of GARM is well implemented under the CSS, this will mainly improve the pace of regulation, provide predictability to companies and benefit a higher level of protection of health and the environment.

3. Gradually introduce bans on hazard classes for all products

The CSS commits to a gradual implementation of GARM so *“Firstly, the Commission will extend the generic approach to risk management to ensure that consumer products do not contain chemicals that cause cancers, gene mutations, affect the reproductive or the endocrine system, or are persistent and bioaccumulative”* and as a second step, to apply GARN *“to further chemicals, including those affecting the immune, neurological or respiratory systems and chemicals toxic to a specific organ.”* In order to ensure the level of ambition of the CSS, and to make GARM implementable, a prioritisation must consist in phasing-in hazard classes to be restricted in consumer and professional uses.

A roadmap with a gradual timeline for concrete transitional periods and their entry into force should:

- **propose an automatic restriction for all CMRs, EDCs and PBTs of substances as such and in mixtures available to the general public as well as in consumer products, in order to swiftly comply with the CSS commitments. Introducing first the ban** of chemicals classified as hazardous with a category 1 and, gradually, phase-in the ban of category 2 chemicals. **Equally regulate all PMTs:** considering the threat they pose to health, (drinking)¹ water sources, soils and the fact that they seem to be considered for the impact assessment,² they should also be part of the gradual implementation on hazard endpoints. The PFAS case is an example of the need to regulate these omniscient hazardous substances, including in everyday products.³

The recent developments undertaken by the Commission, suggesting the adoption of a workplan for the development of proposals for restriction or for certain mixtures and article types is far from meeting the CSS commitment, which was *to develop a default approach* to automatically ban certain hazard classes in products.

The approach consisting in phasing-in mixtures and product categories is not aligned with the Commitment of the CSS. Gradation is foreseen in the CSS *but* only for chemicals affecting the immune, neurological or respiratory systems and chemicals toxic to a specific organ, not for categories of mixtures or products. In the CSS, the Commission presented GARM as a method enabling the adoption of automatic risk management measures. A gradation on product categories (similar to a specific risk-based method) would be contradictory with the objectives stated by the Commission when proposing the approach, which were to provide an “automatic trigger of pre-determined risk management measures (...) based on the hazardous properties of the chemical and generic considerations of their exposure”.

4. Regulate substances in mixtures, making use of existing legislation

The recent developments of the Commission reflected upon the regulation of mixtures.

¹ See UBA, Protecting the sources of our drinking water: The criteria for identifying persistent, mobile and toxic (PMT) substances and very persistent and very mobile (vPvM) substances under EU Regulation REACH (EC) No 1907/2006, 2017, accessible via <https://www.umweltbundesamt.de/en/publikationen/protecting-the-sources-of-our-drinking-water-the>

² See background documents to the first Stakeholder workshop on the extended generic risk management approach – 21 March 2022

³ See the European Commission [Staff Working Document on PFAS, accompanying the Chemicals Strategy](#), 2020

To regulate substances in mixtures, the Commission can take stock of the models provided by existing regulation. Certain liquid substances or mixtures which are classified as CMRs and intended for supply to the general public are restricted under REACH.⁴ These restrictions tackle chemicals based on their intrinsic hazardous properties, and apply to large uses, similarly to a generic approach.

The Commission must extend or use the same restriction model to restrict other properties (the hazard endpoints listed in the CSS) in consumer and professional products.

5. The essential use concept must filter out unnecessary chemicals

Consumer products should be free from the most harmful chemicals: as a principle, there should be no use deemed essential for society in consumer products.

However, if the GARM provides sufficient guaranties to automatically phase-out the most harmful chemicals in products, some uses might be deemed essential where they are exceptional, thoroughly justified, and where strict conditions (short transition periods) apply to tolerate their presence in products.

The concept of essential use must give a decisive role to alternatives: where alternatives exist, no use of one of the most harmful chemicals can be deemed essential. With this filter, hazardous chemicals will be phased out of products, and companies offering safe alternatives will also benefit from the implementation of GARM and essential use concept.

⁴ Entries 28,29,30 of Annex XVII REACH