

Johnson & Johnson comments on Notification Number: 2017/284/S (Sweden)

Ordinance amending the Chemicals Products (handling Import and Export prohibitions) Ordinance (1998:944)

The Johnson & Johnson Family of Consumer Companies is committed to developing products that are gentle on people and gentle on the environment. We firmly believe in the importance of protecting the aquatic environment and consider environmental health to be as important as human health. We aim to provide peace of mind to consumers regarding the products they take into their homes. We therefore welcome the opportunity to comment on the legislation proposed by Sweden.

When considering whether the proposal for a ban is fit for purpose or proportionate, we believe it is important to recognise the tiny proportion of plastic litter found in the marine environment attributable to microbeads in cosmetics. Scientific evidence suggests that the vast majority of microplastics in the seas come from the breakdown of bigger plastic materials and not from microbeads in cosmetics and personal care products, which are estimated to contribute to 0.1 %–1.5 % of aquatic plastic litter¹.

Considering this small contribution to marine litter, we believe that voluntary action is the most proportionate and appropriate response. Legislative responses should be reserved for use only when voluntary measures have proved unsuccessful. Cosmetics Europe, the European trade association for the cosmetics and personal care industry, recommended in October 2015 that member companies discontinue use of plastic microbeads for exfoliating and cleansing purposes in rinse-off cosmetics. A survey carried out last year demonstrated a rapid and substantial 82% reduction of these ingredients in rinse-off cosmetic and personal care products between 2012 and 2015. This indicates that the industry is on track to have voluntarily removed all microbeads from rinse-off cosmetics by 2020 in Europe. Johnson & Johnson took the <u>commitment</u> in 2013 to globally phase-out plastic microbeads² in rinse-off cosmetics by the end of 2017 and are on track to achieve this objective.

Finally, plastic microbeads are designed to be removed by waste water systems. Scientific studies show that up to 99% of plastic microbeads are captured by waste water treatment plants³. This means that the contribution could be even smaller. Only a tiny fraction of the microbeads actually used in our sector's products - an already minute contributor to marine litter - will end up in our oceans. Should policy makers remain convinced of the need for a legislative ban, however, we advocate for this measure to:

I. Be based on scientific evidence, clear and appropriate definitions in order to ensure the measures are proportionate

II. Provide an appropriate time to identify alternative ingredients that are safe for both humans and the environment and to reformulate products in such a way as to ensure a consistent supply of product to consumers

III. Be put forward at the European level in order to safeguard the functioning of the single market and guarantee a level playing field across the European Union

¹ Gouin et al 2015, "Use of Micro-Plastic Beads in Cosmetic Products in Europe and Their Estimated Emission to the North Sea Environment" found that in 2012, 4360 tons were used.

² Here we understand plastic microbeads as intentionally added, solid plastics less than or equal to 5mm in diameter, used to cleanse or exfoliate in rinse-off cosmetic products, and which are not biodegradable.

³ Screening of microplastic particles in and down-stream a wastewater treatment plant; Magnusson and Norén, 2014

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I. Clear and appropriate definitions of plastic

With respect to point I above, we note that the proposed legislation includes a definition of plastic with the potential to include a wide range of polymers key in a significant number of cosmetic and personal care products that are not plastic, that do not contribute to marine litter and which are not toxic.

The correct terminology should be used to avoid confusion or disproportionate regulatory measures from being adopted that do not lead to any real benefit to the environment. Polymers provide structure that are central to modern living. In nature, polymers include DNA, proteins, sugars, fats, and carbohydrates. In personal care products, polymers are used for a variety of functions including improving texture, stability, and moisturization. Plastics are but one example of solid, man-made materials consisting of polymers. It is also important to remember that the cosmetic ingredient names (INCI) was not designed to describe plastics. Polymers, such as polyethylene, vary in their properties from solids to liquids yet may have the same ingredient (INCI) name used on a product label. Definitions in any legislative initiative to ban microplastics are therefore crucial to make sure that non-targeted, non-plastic ingredients are not caught by the scope.

Based on the plastics definitions adopted in France (Decree in the Biodiversity law), or in Italy (Ecolabel and cosmetic products) and other internationally-used definitions (Cosmetics Europe, Global Plastic Science Task Force of the cosmetics and associated industries), we suggest defining plastic as: *"synthetic water insoluble polymers that are molded, extruded or physically manipulated into various, solid forms which retain their defined shapes in their intended applications during their use and disposal."*

II. Date of entry into force and reformulation

According to the Swedish proposed legislation, the ban would come into force in January 2018. Considering the broad plastics definition in the text and the risk for certain non-plastic substances to be caught by the ban, we believe, if the definition is not appropriately amended, that a longer implementation period would be necessary to amend our supply and distribution networks and if needed, to find alternatives for substances at risk.

We believe that, when identifying suitable substitutions, the impact on both humans and the environment must be considered. At the Johnson & Johnson Family of Consumer Companies we don't compromise on safety for expediency in reformulations. In order for us to make these substitutions, we must be assured that the alternatives meet our safety assurance process - which includes provisions for properly sourcing the right ingredients, assessing human and environmental safety, sustained shelf-life performance and suitability for the skin. Very thorough assessments are necessary to measure the impact of ingredients on aquatic ecosystems; to make sure that ingredients don't just work, but work together and are well tolerated; and to ensure that formulas are stable and the products don't spoil. Our safety standards and sustainability principles are some of the most rigorous in the world - we undertake an exhaustive and time-consuming process each time we reformulate our products.

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III. EU-level legislation to safeguard the functioning of the internal market

As the Johnson & Johnson Family of Consumer Companies operates in many EU Member States, we would like to stress the importance of a harmonized approach at the European level. Since the Environment Council's call for a ban on microplastics in cosmetics and ad hoc regulations in other sectors in 2016, we have witnessed a growing number of national initiatives and discussions (France, Netherlands, Italy, United-Kingdom, Germany, Belgium). Although we welcome the motivation for action, these initiatives so far have all proposed different definitions of microplastics (sometimes microbeads), plastics and diverging scopes for the bans. This effectively constitutes a barrier to the single market, create an uneven playing field and leads to unnecessary economic and logistic consequences for companies.

Unfortunately, since each of these initiatives fail to take a more holistic approach to marine litter by focusing only on cosmetics, the impact on reducing microplastic litter remains severely limited.