

Justification of joint minority position of the adopted SEAC opinion for the proposed restriction on methanol

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The restriction is not warranted on the following grounds:

1. **Insufficient Justification that action is required on an EU wide basis - Countries affected:**
Positive evidence of (fatal) methanol poisoning cases due to deliberate ingestion of screen wash products is restricted to a two member states (Poland & Finland). This has been extrapolated to other countries based on subjective criteria such as perceived cultural similarities to those member states for which positive evidence exists. However, there is also evidence that analogous products are on the market in other countries and for these there have been no fatalities or there is an absence of data. Data collected in the UK demonstrates that whilst ingestion of methanolic screen wash products has occurred, all cases were asymptomatic or displayed only minor symptoms (excluding an apparent suicide)¹. Data from the Belgian poison center (Antigift Centrum-Centre AntiPoisons) shows 10 cases involving ingestion of methanol-based screen wash products over 7 years, 3 related to suicide and seven to accidents, none related with alcoholics. Given the discrepancies in observed cases, it would seem equally valid to extend the observations for the non-affected member states to the rest of the EU. In this analysis, the problem is a local one for Poland and Finland. Overall, there are significant uncertainties for the extrapolation to the whole EU and this makes the conclusions unsound.
2. **Insufficient Justification that action is required on an EU wide basis - Market Distortion:**
The opinion claims that the restriction is justified because there is a need to mitigate the risk of creating unequal market conditions. It cites the existence of Member States adopting their own individual national legislations on the issue. Evidence that the plethora of national restriction has indeed distorted the market has not been presented. Thus, this justification of market distortion is merely conjecture. Indeed, as the market appears to have functioned perfectly well with national restrictions in place, it would appear that the empirical evidence indicates that, for this product type, national legislation does not lead to market distortion. This seems reasonable as screen wash products are relatively bulky and consequently expensive to transport in the pack sizes available to consumers (typically available in quantities of < 10 litres and usually < = 5 litres). This suggests that the market for screen wash products will largely be local and trans-border trade would appear to be likely only at locations close to national borders. It also seems unlikely that the target population (chronic alcoholics) will make the effort to cross borders to obtain the product; especially if analogous products in other countries contain the 'undesirable' (from the perspective of the alcoholic) methanol constituent. High transport costs (comparable to the cost of the product) will act to limit internet based sales. Thus, the empirical evidence is that market distortion is limited or non-existent and that national legislation does not lead to any distortion (such national restrictions would appear to be legally possible)²
3. **Insufficient Justification that the action is the most appropriate measure.**
Whilst it has been stated by the Commission that it is legally possible to use a REACH restriction as a control measure for intentional misuse, it is not clear that it is an appropriate control measure. The underlying issue in this case is one of ethanol abuse and the use of alcohol-based products as a surrogate for consumable alcohol (ethanol). Substance abuse is a complex issue and a measure aimed at an individual alcohol-based product type may not be an approach that solves the real problem of substance abuse. Indeed, it could lead to an increase in the misuse of windshield washer fluids as the measure will effectively increase the ethanol concentration and decrease the concentration of alcohols that currently deter the use of these products by those who are not chronic alcoholics. As indicated in point 2 above, the problem can be viewed as a national one and as such local measures could be used. For example, national taxation of the products such that they are no longer an attractive substitute for consumable alcohol may be equally or more effective. Such options have not been explored and may provide a solution at lower overall cost.

¹ Data collected by UK National Poisons Information Service and submitted to Rapporteur during the course of the SEAC discussions.

² e.g., Case C473/98

4. Significant uncertainties in the cost-benefit ratio

The calculations for the costs and the benefits are littered with assumptions and uncertainties. For example, the volumes of methanol that will need to be replaced have been adjusted using an elaborate calculation that accounts for average winter temperatures in the different member states. This results in the volumes being set at zero for some warmer member states. However, products with similar formulations are available across the EU where they serve as concentrates in warmer countries or ready to use formulations in colder countries. Thus, total volumes should be used rather than any adjusted values.

The temperature adjustment calculation also assumes that the function of the methanol is only as an anti-freeze. Whilst methanol will perform this function, it is also acting as a low boiling point solvent that will degrease and clean the windscreen without leaving residues. As methanol is cheaper than ethanol, but equally effective as a cleaning solvent for glass, avoiding a more severe classification for the product is likely to be the factor that limits its concentration in the products. This would mean that many suppliers actively choose methanol on a cost and effectiveness basis. Overall, the volume calculations could be wildly inaccurate and consequently the costs for substitution could be much higher.

The costs for the benefits are also highly uncertain. As noted above, the extrapolation to other EU Member States may not be valid. In particular there is an assumed relationship between number of fatalities and the tonnage of methanol used for screen wash formulation; this is used to generate a 'tonnes of methanol per fatality' value. No evidence is presented to support this approach and whilst one can understand why it has been chosen, using data from different countries to generate 'tonnes of methanol per fatality' values demonstrates its inherent flaw. Using Polish data gives a value of 215 tonnes of methanol per fatality; Finnish data gives a value of 67 tonnes per fatality, and UK data gives a value of infinite tonnes of methanol per fatality (as there have been 0 (zero) deaths). This exceptionally wide variation clearly demonstrates that a single 'tonnes of methanol per fatality' value cannot be used across EU states. Indeed using the UK value would negate any benefits for the EU as a whole and highlights the local nature of the issue.

In addition, the benefits have been calculated using a Value of Statistical Life (VSL) approach. Although this approach would be valid for a restriction targeted at the whole population, the target population for the restriction are those who actively choose to abuse the screen wash products as a substitute for consumable alcohol (i.e., chronic alcoholics). For this population, methanol toxicity will not be the only factor contributing towards their death (e.g., they will also have extensive liver damage due to ethanol and other issues related to poor diet). This suggests that a Value of Life Year (VOLY) approach should be used to calculate the benefits rather than a VSL approach. The VOLY approach is used in other domains in which harmful substances are but one factor contributing towards death – e.g. air pollution. Mortality statistics show that the average age of death from alcoholic liver disease is around 56-58 years (this is fairly constant across the EU). This points towards a value of 8 life years lost per fatality. Using these figures we would get a much lower value for the benefits. With a more accurate analysis, the costs could outweigh the benefits.