ECGA
European Advanced Carbon and Graphite Materials Association

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# EU Green Claims Directive Art 21.3.b in contradiction to ambitions of Net-Zero Industry Act and EU resilience



ECGA believes that the provision iN Art 21,3 (b) which foresees the possibility of prohibiting green claims for products containing hazardous substances should be deleted.

- First and foremost, the mere use of hazardous substances does not immediately imply that they are still present in the final products or that their use has an environmental impact. On the contrary it often contributes to a better performance since these substances have specific properties and contribute to the functionality of the product, its efficiency or longevity.

- Additionally, such a provision might disincentivise research and product development oriented to limit environmental impacts. With proper management, the presence of hazardous substances in a product does not automatically lead to the release of the substance to the environment or exposure for consumers, therefore not necessarily leading towards unintended negative environmental impacts.

- Where uses of chemicals are demonstrated to be safe from both human and environmental perspective, a ban of the presence or use cannot be considered a proportionate measure.

- There are already dedicated legislative frameworks and policies in place, such as REACH and, in the field of food contact Regulation (EC) 1935/2004, which take into account not only hazardousness of the use of a chemical substance, but also the safety of their use, based on high quality science and application-specific risk assessment.

**Products for strategic sectors identified by the Net Zero Industry Act**

In May the Council and the European Parliament reached a provisional deal on the regulation establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem, better known as the 'net-zero industry act' (NZIA). The regulation aims at boosting the industrial deployment of net-zero technologies needed to achieve EU's climate goals, using the strength of the single market to reinforce Europe's leadership in industrial green technologies.

The net-zero industry act aims to ease conditions for investing in green technologies, by simplifying permit-granting procedures and supporting strategic projects and proposes to ease market access for strategic technology products.

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However, the current proposal on Green Claims and its limitations regarding hazardous substances in products is counterproductive to this strategy and will prevent further investments in these required strategic sectors. There is a high risk that the objectives of the Net-Zero Industry Act will not be possible to reach: that is reaching 40% of the production required to cover EU's needs in strategic technology products, and their evolution in comparison to world production for products such as:

- solar photovoltaic (PV) technologies: to reach at least 30 gigawatt of operational solar PV manufacturing capacity by 2030 across the full PV value chain;
- wind and heat pump technologies: to reach a Union manufacturing capacity for wind of at least 36 GW and, respectively, for heat pumps of at least 31 GW in 2030;
- battery technologies: the aim at almost 90% of the Union's battery annual demand being met by the Union's battery manufacturers, translating into a Union manufacturing capacity of at least 550 GWh in 2030;
- domestic renewable hydrogen production: the overall installed electrolyser capacity being deployed reaches at least 100 GW hydrogen by 2030.

**Overall strategic sectors identified**

For many of the identified strategic sectors synthetic graphite is being used in the tooling or as a raw material and integral part of the product.

**Synthetic graphite is produced with needle coke and coal tar pitch for which no substitute has been found that delivers the performance, quality for the products, and the longevity of the product. In the production process this classified substance is converted into a non-classified non-hazardous substance: pitch coke. This is then graphitised into synthetic graphite.**

At least for all the listed technologies hereafter this material is required:

- solar technologies, including: solar photovoltaic, solar thermal electric and solar thermal technologies;
- onshore wind and offshore renewable technologies;
- battery and energy storage technologies;
- heat pumps and geothermal energy technologies;
- hydrogen technologies, including electrolysers and fuel cells
- carbon capture and storage technologies

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- electricity grid technologies, including electric charging technologies for transportation and technologies to digitalise the grid
- nuclear fission energy technologies, including nuclear fuel cycle technologies;
- renewable energy technologies, not covered under the previous categories;
- energy system-related energy efficiency technologies, including heat grid technologies;
- wind propulsion and electric propulsion technologies for transportation;
- nuclear technologies not covered under previous categories.

Many of these sectors use connectors, circuit boards, batteries, semiconductors which are today dependent on synthetic graphite

Hazardous substances are often used in applications that are enabling the transition towards a more sustainable society and are present in goods that are used for many strategic sectors identified by the EU under its Net-Zero Industry Act. There would be no benefits that could even begin to outweigh the societal costs of not using them and the use of this substances is regulated through other EU legislation.

**Conclusion**

The article 21.3 (b) should be completely removed.