

Revision of EU rules on food contact materials – public consultation

Document addressed to the European Commission by SAFE – Safe Food Advocacy Europe ASBL

SAFE welcomes the opportunity to contribute to the public consultation on the revision of EU rules on food contact materials (FCMs). Overall, SAFE agrees with the issues identified in the inception impact assessment, notably the lack of harmonisation of materials, the focus on starting substances (rather than also on the final articles, and the lack of coherence with chemical legislation and other consumer products legislation.

In addition to the issues identified, SAFE would like to draw attention on the various health problems caused by FCMs such as endocrine disruptive (ED) effects and increased chemicals found in the human body on account of chemical components migrating from food packaging into food. Recycled plastics are also a growing concern due to harmful chemicals integrated during recycling processes.

To support our responses to the public consultation, we would like to stress the points below.

1. GENERAL MESSAGES

The current legislation on FCMs does not effectively achieve its objective of securing a high level of protection for human health and consumers' interest. This is because legally binding provisions have only been adopted for four materials (namely, plastics, ceramics, regenerated cellulose and active and intelligent materials) out of a list of seventeen. Therefore, the rules regulating the manufacturing of most FCMs remained at the discretion of Member States which resulted in a **plurality of legislations across the EU as well as in different standards for product safety**. Those differences hamper the consumers' interest to have a uniform and effective legislation on materials which can potentially affect the composition of foodstuffs and therefore jeopardize the **right of European consumers to benefit the same level of protection across the EU**.

Moreover, **many materials largely used as FCMs (such as paper, ink, adhesive or glues) are not controlled by harmonised EU-level laws**. Even though those materials are commonly used in Europe, they are unregulated, and their safety has not been evaluated by any national authority.

Lastly, there is a severe **lack of information given to European consumers** regarding the identity and the safety of chemicals used in FCMs. Plus, regulatory processes should include stakeholder participation as it is in the REACH Regulation. The new FCMs regulation should advocate for a greater openness and give the right to consumers to receive correct information.

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2. SAFETY AND RISK MANAGEMENT

Migration into food contact materials

The new EU rules need to sufficiently take into account scientific research on chemicals migration. There is clear scientific evidence¹ that chemicals can transfer from FCMs and articles into food – approximately 12,000 hazardous chemicals are used in packaging and other forms of FCMs that migrate into our food and that are hazardous for human health.

The main problem is that toxicity and exposure information is available only for few of the intentionally used chemicals and that risk assessment of unknown chemicals is not possible under the current regulatory approach. Consequently, scientists see a need for revising how the safety of migrating chemicals is assessed, using current scientific understanding and SAFE stresses that the presence and migration of chemical substances in food contact articles must be measured, evaluated and controlled.

In light of the above, SAFE believes that an appropriate risk management of substances includes an overall migration limit. In addition, testing requirements should be adopted for all potentially migrating substances. Importantly, the new EU rules should establish a prohibition on priority 1 substances that migrate from the final FCM article into food.

Endocrine disruptors

SAFE supports a generic approach to risk management of priority 1 substances that are, both, suspected and known or presumed to be disruptive to the endocrine system. Moreover, the new regulatory framework should ban the presence of most hazardous chemicals in FCMs, including CMRs, PBT and vPvB as well as endocrine disrupting chemicals.

Endocrine disruptors (EDs) are inherent to food contamination as they are present in everyday substances, from foodstuffs' packaging to pesticides. Currently, endocrine disruption, as a specific hazard of concern, is not routinely assessed for chemicals migrating from food contact articles. This constitutes a risk to citizens' exposure to endocrine disrupting chemicals.

In addition, low level of exposure to some chemicals - that might be EDs - are not tested because exposures to them are considered to be below the toxicologically established no-effect level. **These above-explained loopholes in the current FCMs Regulation should be considered to set up a new assessment process to ensure that FCMs do not contain any endocrine disruptors.**

¹ [Impacts of food contact chemicals on human health: a consensus statement | Environmental Health | Full Text \(biomedcentral.com\)](#)

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Recycled plastics

We see that the public consultation lacks more questions on recycled plastics and the concerns arising therein. As we highlight in our report on recycled plastics², we refer, in particular, to the increased migration of chemicals from FCMs into food, the increased possibility of contamination due to previous misuses by consumers, cross-contamination from waste disposal and environmental contaminants, and the sorting machines-products prohibited from being recycled into FCMs are being recycled on a significant scale such as waste electric and electronic equipment (WEEE).

In light of the new proposal for a Regulation on Packaging and Packaging Waste³ and the recent review of rules on recycled plastics in food packaging⁴, we believe the European Commission has to ensure a safe and chemical-free waste recycling process.

It is considerably more difficult to control recycled plastic's safety than it is for virgin plastic. The exposure of hazardous substances to humans is of great concern from a human health perspective, as a risk of cocktail effect may rise on account of the simultaneous exposure to different substances. Consequently, better risk assessment and testing should be put in place to reduce safety risks brought on by non-intentionally added substances (NIAS) leakage from FCMs to food.

In addition, the presence of NIAS should be systematically monitored in recycled FCMs. NIAS can reach higher levels in recycled food packaging on account of the materials intended for recycling that may contain intrinsic contaminants such as dyes, additives and their degradation products. Furthermore, packaging may be degraded with a greater number of chemicals that are accumulated when materials are recycled several times. Previous use and misuse of plastic packaging may also contribute to the presence of unwanted and unexpected contaminants, and non-food grade materials may enter the recycling stream.

3. EFFECTIVE ENFORCEMENT AND IMPLEMENTATION

As enforcement controls differ across Member States, a deeper harmonization of administrative procedures, control and enforcement practices would be beneficial for the effective functioning of any FCM as well as securing a high level of protection of human health and interests of consumers. Particular attention should be given to companies' declaration of compliance (DoC), to make sure that there is an effective control on their accuracy.

² See: <https://www.safefoodadvocacy.eu/wp-content/uploads/2021/03/SAFE-Report-on-Recycled-plastic-in-FCMs-2020.pdf>

³ See: https://environment.ec.europa.eu/publications/proposal-packaging-and-packaging-waste_en

⁴ See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1616>

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In addition, since the submission of DoCs mostly remains at the discretion of the Member States, there are legislation and safety standards depending on each country. Member States should therefore perform controls more efficiently both imported and EU-manufactured finished articles and ensure that they have the necessary staff trained to do so. The European Commission should also promote a systematic enforcement strategy to ensure that EU FCM policy translate into real consumer protection.

Consequently, new regulations must be enforceable and sufficient resources for compliance control must be made available to authorities. As different standards can hamper legal certainty for all stakeholders involved, SAFE believes a single EU standard for analytical testing of FCMs is required.

4. COHERENCE WITH EU LEGISLATION

As pointed out by the inception impact assessment, there is a lack of coherence between FCMs legislation and other EU pieces of legislation. In particular, SAFE would like to stress the mismatch between the European Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and the FCMs Regulation. Substances of Very High Concerns (SVHC) are defined under the REACH Regulation. Nevertheless, those chemicals with proved adverse effects on human health can be found in food contact articles in Europe. Therefore, the Commission should ensure better coordination between REACH and FCMs legislations to guarantee that harmful substances phased out under REACH are phased out in FCMs as well.

5. CONCLUSIONS

In light with the important push for a greener and sustainable lifestyle encouraged by the European Green Deal, SAFE takes this opportunity to use this revision to address the issue connected to the current Food Contact Materials Regulation.

Several loopholes have been listed regarding the assessment process of FCMs that does not ensure a complete safety, the limited scope of the current legislation that do not cover the numerous hazardous chemicals migrating into food and the new innovative materials such as recycled plastics which have been proven to contain harmful chemicals.

SAFE invites the Commission to give great attention to the presence of NIAS in the recycled plastic in FCMs, specifically in light of the Circular Economy objectives. As these substances are harmful for consumers, there should be a strong regulation assessing the healthiness issues. In that sense, we endorse the need of an independent scientific research on this matter.

SAFE has been waiting for several years the revision of the FCMs Regulation. It is essential to provide a safe and healthy legal framework that would be applied uniformly and with high standards in all EU Member States in order to guarantee a maximum protection of European citizens' food, health and environment.