

HEAL's response to public consultation by the European Commission: Evaluation of EU legislation on Food Contact Materials



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The Health and Environment Alliance (HEAL) welcomes the possibility to contribute to the evaluation of EU legislation on food contact materials (FCM) by the European Commission. However, HEAL regrets that the overall framing of the consultation overlooks health protection as a major issue. The series of closed questions proposed by the questionnaire does not provide the opportunity to bring in accurate responses on the regulatory changes needed. This paper is therefore HEAL's main response to the public consultation.

OBVIOUS HEALTH PROTECTION GAPS

In its 2016 [briefing](#) (1) on health concerns related to chemicals in food contact materials and its 2017 [response](#) (2) to the public consultation on the European Commission roadmap on the review of the food contact materials legislation, HEAL raised concerns that have unfortunately not been addressed to date and are also not reflected in this consultation. We regret the missed opportunity to use this consultation in a truly solution-oriented way in order to close the obvious health protection gaps of the current regulatory framework.

It is urgent for the European Commission to outline the existing loopholes in the regulation that currently put citizens' and workers' health at risk together with matching commitments to act on them. Such a European legislative overhaul could partly be done by drawing on the most protective regulatory frameworks that already exist in individual member states. Doing so will benefit citizens' and workers' health and translate into higher regulatory certainty for businesses so that they can operate in better conditions. Finally, this will stimulate innovation towards safer alternatives, giving Europe's industry a competitive advantage over the rest of the world and an opportunity to set a golden regulatory standard.

Many of the synthetic chemicals involved in packaging and storing of our food can leak into it, and thus be passed onto the consumer. Researchers (3) have repeatedly alerted to potential harm to long-term health for three reasons:

1. consumers are exposed to known toxicants;
2. hormone production-disrupting chemicals, such as bisphenol A (BPA), tributyltin, triclosan and phthalates, can also be present in FCMs and;
3. the number of known chemical substances intentionally used in FCMs is over 4,000. (4)

This evidence combined with the Joint Research Center's assessment (5) and other studies demonstrates that the regulation falls short of meeting its two main objectives: the high level of protection of human health and the interests of consumers on the one hand, and the effective functioning of the internal market on the other hand. Of particular concern is the exposure to endocrine disrupting chemicals (EDCs), which science has associated with various diseases and conditions, such as hormonal cancers (breast, prostate, testes), reproductive problems (genital malformations, infertility), metabolic disorders (diabetes, obesity), asthma and neurodevelopmental conditions (learning disorders, autism spectrum disorders).

UNWANTED CHEMICALS FOUND IN FOOD PACKAGING

In HEAL's view, the most immediate concerns relate to the lack of adequate provisions to achieve the protection of human health in the current regulation. This is particularly critical when we know that vulnerable groups - such as babies, young children, pregnant or breast-feeding women - are most at risk from the adverse health effects of an inadequate regulation (e.g. due to the regulation's failure to address certain toxic substances present in food contact materials).

Unwanted chemicals are routinely found in various food packages, without consumers knowing it and without regulatory bodies acting upon those findings to fully ban those substances from food contact materials (6). On the contrary, addressing food contact materials in a health-protective way will benefit citizens and workers in the food packaging sector, and contribute to significant economic savings. (7)

Our concerns about the regulation's inadequacy to protect human health add to and overlap with the inadequacy of the regulation to ensure the functioning of the single market.

This is because member states currently adopt different regulations to fill in the gaps of the European framework.

In practise, this means that citizens are not protected equally across Europe from the risks arising from the presence of chemicals used in food packaging and also that industries are not operating on a level-playing field that is necessary to innovate in a safe and environmentally friendly way. Industries currently have to abide by different standards depending on the countries in which they sell their products, with workers in the food packaging industry also exposed to different risks depending on the country of their workplace.

In HEAL's view, the biggest regulatory gaps – also expressed in a 2016 resolution by the European Parliament (8) – that should be covered by the EU evaluation include the following:

- Most materials currently used for food packaging are not covered by the current regulation. Only five types of food contact materials out of 17 are covered: these are ceramics, regenerated cellulose film, active and intelligent materials, plastics, recycled plastics. Widely used materials such as paper and boards are overlooked.
- Many chemicals are not assessed for safety by public authorities, the so-called

non-intentionally added substances (NIAS) that are present as impurities or by-products of manufacturing processes.

- Numerous chemicals harmful to human health are overlooked –including substances identified as of very high concern (SVHC) under the REACH legislation.
- Endocrine disrupting chemicals are not addressed at all.
- Recycled inputs to the food contact materials are not assessed for their adverse health effects.
- The real-life exposure conditions to chemicals as well as the additive effects between the various chemicals used in one single food package are overlooked in the current risk assessment process.
- The current regulatory process for FCM is not transparent enough and suffers from an unbalanced stakeholder access, with limited access for civil society groups.
- By not being aligned with the REACH regulation, the FCM regulation is not delivering on the better regulation objectives set by the European Commission itself.

In HEAL's view, the evaluation of the regulation should allow to take measures in order to achieve the following:

- **Regulate all types of food contact materials in a health-protective way;**
- **Contribute to a toxic-free circular economy;**
- **Prohibit or phase out "Substances of Very High Concern" (or SVHCs) as identified under the REACH legislation;**
- **Ban all endocrine disrupting chemicals (or EDCs) from FCMs;**
- **Address the cocktail effect of chemicals when assessing the safety of the substances present in FCMs;**
- **Support innovation for safer and less resource intensive materials and health-protective alternatives.**

Finally, HEAL and a group of other organisations (9) believe that a revised EU regulation of chemicals in food contact materials should be based on the following five principles:

- 1. A high level of protection of human health**
- 2. Thorough assessment of chemicals in materials and final articles**
- 3. Effective enforcement**
- 4. A clean circular economy based on non-toxic material cycles**
- 5. Transparency and participation**

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The Health and Environment Alliance (HEAL) is the leading not-for-profit organisation addressing how the environment affects human health in the European Union (EU) and beyond. HEAL works to shape laws and policies that promote planetary and human health and protect those most affected by pollution, and raise awareness on the benefits of environmental action for health.

HEAL's over 70 member organisations include international, European, national and local groups of health professionals, not-for-profit health insurers, patients, citizens, women, youth, and environmental experts representing over 200 million people across the 53 countries of the WHO European Region.

As an alliance, HEAL brings independent and expert evidence from the health community to EU and global decision-making processes to inspire disease prevention and to promote a toxic-free, low-carbon, fair and healthy future.

Putting health at the centre of environmental issues

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NOTES:

- (1) Details about HEAL's views on the gaps in the existing regulation and our recommendations are detailed here: http://www.env-health.org/IMG/pdf/15022016_heal_briefing_fcm_final.pdf
- (2) https://www.env-health.org/wp-content/uploads/2018/01/2017_12.HEAL-response-roadmap-FCM-evaluation.pdf
- (3) K. Grob article "The European system for the control of the safety of food-contact materials needs restructuring: a review and outlook for discussion": <https://www.tandfonline.com/doi/full/10.1080/19440049.2017.1332431> ; K. Grob article "Listing approved substances and materials for food contact in Europe: ideas for a better use and further evolution of the present system. A contribution for discussion": <https://link.springer.com/article/10.1007/s00003-017-1112-2> ; American Academy of Pediatrics statement on Food Additives and Child Health : <https://pediatrics.aappublications.org/content/142/2/e20181408> ; ANSES analysis on deficiencies re: mineral oil hydrocarbons in FCMs and need to limit exposure : <https://www.anses.fr/en/content/opinion-anses-migration-mineral-oil-compounds-food-recycled-paper-and-cardboard-packaging> ; J. Muncke et al. "Scientific Challenges in the Risk Assessment of Food Contact Materials": <https://www.ncbi.nlm.nih.gov/pubmed/28893723> ; John N. Hahladakis et al. "An overview of chemical additives present in plastics: Migration, release, fate and environmental impact during their use, disposal and recycling": <https://www.sciencedirect.com/science/article/pii/S030438941730763X> ; B. Geueke et al. "Food packaging in the circular economy: Overview of chemical safety aspects for commonly used materials": <https://www.sciencedirect.com/science/article/pii/S0959652618313325>
- (4) Journal of Epidemiology and Community Health <https://www.medicalnewstoday.com/articles/272910.php>
- (5) C. Simoneau et al, Non-harmonised food contact materials in the EU: Regulatory and market situation, 2016 <https://ec.europa.eu/jrc/en/publication/eur-scientific-and-technical-research-reports/non-harmonised-food-contact-materials-eu-regulatory-and-market-situation-baseline-study>
- (6) See for instance <http://kemi.taenk.dk/bliv-groennere/fast-food-packaging-contains-unwanted-fluorinated-substances> ; <http://kemi.taenk.dk/bliv-groennere/test-chemicals-plastic-food-containers-migrate-warm-fatty-foods> ; <http://kemi.taenk.dk/bliv-groennere/test-unwanted-chemicals-found-pizza-boxes> ; <http://www.env-health.org/resources/press-releases/article/two-thirds-of-food-can-linings> ; <https://kemi.taenk.dk/bliv-groennere/test-fluorinated-substances-food-packaging-ready-made-cakes> ; <https://kemi.taenk.dk/bliv-groennere/test-bisphenol-still-present-cans-tomatoes>
- (7) See for instance: <https://ehp.niehs.nih.gov/wp-content/uploads/2017/09/EHP644.alt.pdf> ; <http://www.chemtrust.org/wp-content/uploads/chemtrust-foodcontactchemicals.pdf>
- (8) <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2016-0384>
- (9) <https://chemtrust.org/5-key-principles-fcm/>