BRIEFING

Comments on the EU Commission's draft regulation to restrict the use of BPA and other bisphenols in food contact materials

8 March 2024

The Health and Environment Alliance (HEAL) is grateful for the opportunity to provide input into the European Commission's draft proposal to restrict the use of bisphenol A (BPA) and other bisphenols in food contact materials (FCM).

Together with other health and environment groups representing civil society, HEAL has been calling for years on European decision-makers to take steps to fix the loopholes that currently exist in terms of the evaluation and regulation of chemicals, including for food contact materials [1]. We have repeatedly called for a comprehensive approach to urgently address the serious health and environment concerns associated with exposure to BPA and other bisphenols that are present in too many aspects of our daily lives [2].

HEAL regrets the considerable delay to revise the regulation on FCM and wishes to take this opportunity to reiterate its call for an overarching restriction of bisphenols under REACH.

Previous EU regulatory measures on bisphenol A and other bisphenols have fallen short of implementing the precautionary principle. The decisions to take a narrow scope approach and to set high limits have resulted in years of continuous exposure for millions of EU citizens through their food and various consumer products, including for most vulnerable groups such as children, pregnant women, or teenagers [3]. Such shortcomings and loopholes must be prevented in the forthcoming restriction.

HEAL comments on the proposed regulation focus on the following aspects:

1. Scope

- HEAL welcomes the approach for the restriction of bisphenols as a "group" of substances in the framework of the FCM, thus limiting the risks of regrettable substitution and giving a clear signal to promote innovation for safe alternative solutions.
- We commend the implementation of a dynamic scope approach allowing for direct coherence with the classifications under the CLP regulation.
- We call to extend the scope of the prohibition for the substances covered to include "other bisphenols" which are CMRs and EDCs for human health category 2 (Article 1.2.b and Article 4.1). This is essential to guarantee a high level of protection and would act as an incentive to generate data. It also brings the provisions in line with the CLP.

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- We call for a widening of the scope of FCM covered rather than having two limited and separate lists for BPA and other bisphenols. The regulation must encompass all FCMs in which BPA and other bisphenols are currently used, may be used in the future, or may be present because of the use of contaminated recycled materials (Articles 1.2.a, 1.2.b, 3.1 and 4.1). A comprehensive range of FCM must be covered from the onset to deter any attempts to evade regulatory oversight. Ensuring a high level of health and environment protection must be the primary goal. A comprehensive regulatory scope will also promote innovation for safe alternative solutions in the context of the circular economy and contributes to the prevention of toxic recycling.

2. Shorter transition periods and limits to sell off periods for "use-up stocks"

- Robust and comprehensive measures to protect people's health and the environment against exposure to bisphenols are long overdue. Given the serious health concerns associated to exposure to BPA and some other bisphenols (which include reprotoxicity, endocrine disruption, and links with various types of cancer, including breast cancer), the transition periods of 18 and 36 months should be considerably shortened.
- Furthermore, setting a limit to the sell off period for "use-up stock" is essential.

3. Closing the loopholes for BPS in Regulation 10/2011 on plastic materials and articles intended to come into contact with food

If the authorisation for the use of BPS remains unchanged, a loophole and an incentive for regrettable substitution of BPA by BPS will be created. BPS is listed in the CLP regulation as a reprotoxic 1B substance. Its utilisation in plastic food contact materials should be conditional to re-authorisation for very specific applications only.

4. Comprehensive monitoring of recycled material and prevention of toxic recycling

The monitoring of the contamination of recycled materials for the presence and migration of bisphenols from paper and board materials and articles containing recycled material should not be limited to BPA only, but also include at a minimum BPS. It should also be extended to recycled plastic such as rPET. It is essential for the European Commission to ensure that contamination and migration of BPA and other bisphenols from plastic food contact materials and articles containing recycled materials will not present a risk to consumers.

Conclusion

The ubiquitous exposure to bisphenols and other harmful chemicals, starting from early stages of life represents a violation of international and constitutionally protected human rights.

ECHA's 2017 documentation for the classification of BPA as a substance of very high concern for its endocrine disrupting properties notes that "the effects of BPA are associated with conditions that may lead to a reduced quality of life. In particular, breast cancer, neuro-behavioural disorders and diabetes are observed with high prevalence and increasing trends during the last decades in Europe and raise indisputable societal concern, also in relation to their potential economic burden on the health systems."

BPA has been listed as a substance of very high concern (SVHC) under the EU's flagship chemicals legislation REACH since 2006 for its properties as toxic for reproduction, and for its endocrine disrupting properties for human health since 2017.

NOTES:

[1] https://www.env-health.org/europeans-will-remain-exposed-to-bpa-in-food-packaging/
[2] https://www.env-health.org/heal-urges-meps-to-reject-european-commission-plans-for-bisphenol-a-in-food-contact-materials/
[3] https://www.edc-free-europe.org/articles/european-developments/efsa-concludes-endocrine-disrupting-chemical-bpa-in-food-is-a-health-concern-across-all-age-groups

Other resources:
Find out more about HEAL's work on food contact materials: https://www.env-health.org/how-chemicals-in-food-contact-materials-impact-peoples-health/

Visit the Toxic-Free Food Packaging campaign, a one-stop shop for policymakers, advocates and consumers to understand how chemicals in food contact materials can put our health and the environment at risk. This website is managed by CHEM Trust, Zero Waste Europe, and the Health and Environment Alliance (HEAL): https://toxicfreefoodpackaging.com/

View HEAL's comments on the SVHC identification proposal for 4,4'-sulphonyldiphenol (Bisphenol S; BPS): https://www.env-health.org/wp-content/uploads/2023/01/HEAL-Comments-BPS.pdf

Visit HEAL's comments on the proposal to identify Bisphenol B as a SVHC under REACH: https://www.env-health.org/wp-content/uploads/2021/04/2021.04.HEAL_Comments_SVHC-identification_proposal_-Bisphenol-B.pdf

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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 80 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.

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