Raising standards for consumers

POSITION PAPER

REVISION OF EU RULES ON FOOD CONTACT MATERIALS (FCMs)

ANEC Comments in support of contribution to Public Consultation

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1 | ANEC DEMANDS

Urgently needed measures to revise the EU FCMs rules

Inadequate chemical requirements in the Food Contact Materials Regulation (EC) No 1935/2004 continue bringing about risks for consumers' health and for the correct functioning of the internal market.

ANEC[1] calls on the Commission to proceed with its revision to strengthen the regulatory framework for food contact materials and to address the deficiencies in the implementation of the rules on food contact materials as quickly as possible, especially through the following actions:

- Introducing implementing measures for all materials listed in Annex I to the Framework Regulation not yet covered by regulatory provisions, starting with priority materials (including printing inks, paper and board, metals and coatings).
- In future, the number of substances and materials for evaluation must be radically reduced.
- Certain substances of (high) concern, such as Substances of Very High Concern (SVHCs) or Carcinogenic, Mutagenic and Reprotoxic (CMRs), should be banned in a generic fashion in all FCM materials.
- Authorisation by the Commission, based on EFSA opinions, must include not only substances but also final materials.
- In general, an expiry date (e.g., 5 years) must be set for approved substances and materials. Internal production control (GMP) must be complemented by an external product control by an accredited body.
- A fee system must be introduced for the authorisation of substances and materials (as in REACH or the Biocidal Products Regulation) payable to EFSA.
- Authorisations should be granted only to the applicant and only for a specific use (and for a limited period). In addition, industry should pay a market surveillance fee payable to Member States enforcement agencies. A system could also be envisaged where all toxicity and analytical tests are commissioned by EFSA at the expense of industry in the long run.

[1] ANEC reflections on the basic directions for the future development of the EU legislative framework on Food Contact Material (FCM) https://is.gd/aLUjFp

2 | SPECIFIC INPUT TO THE CONSULTATION

ANEC additions in support of specific questions in the consultation

- Q4A on different stages of regulatory intervention:

It is not clear how the Commission intends to prioritise and assess the substances according to these options.

- Q5 on sustainability:

other legislation has set the aim to achieve the sustainable use of FCMs referred to in the question. FCMs regulation main and critical focus can then remain on consumer health and food safety.

- Q9 concerning the statement "*an approval step of the final FCM article will improve compliance and safety along the supply chain*":

This depends on who is approving. As stated in ANEC position paper on the FCMs rules, ANEC asks for a pre-market authorisation to be made by EFSA:

Pre-market authorisation for substances and materials - not only substances used in the production but – in the long run - also final materials (including non-intentionally added substances, NIAS) must be authorised by EFSA prior to placing FCMs on the market. In general, positive lists based on existing national legislation and guidance papers shall be established following a priority programme, such as proposed by the EU Parliament (paper and board, varnishes and coatings, metals and alloys, printing inks and adhesives). For some materials, a positive list may be of limited relevance or even unnecessary (e.g. glass, ceramics). It may be sufficient in these latter cases to establish migration limits.

- Q10 on verification of compliance: "*Internal production control (GMP) must be complemented by an external product control by an accredited body*."

In case of FCMs, one could envisage a combination of an authorisation of substances and materials (by the Commission after consultation of EFSA) with internal production control and external product control by an accredited body.

The latter might be contracted by the national authority and not be paid by business.

The use of a private accredited certification body may be acceptable for this purpose as it would only confirm continued compliance with the authorisation conditions, rather than defining acceptable substances and materials (including migration limits).

The role of national authorities could thus be limited to conduct spot checks to ensure that the production and products is in conformity to legal provisions (and, possibly, to

hire certification bodies for product control). This would free capacity for monitoring the legislative approval process.

- Q11 on transfer of information in the supply chain:

We underline that while digital or electronic systems can bring practical advances, paper-based systems still need to be in place for information relevant to the final consumer.

3 | CONCLUSIONS

In conclusion, we underline that legislative action is more urgent than ever. For too long consumers have been exposed to the risks of harmful chemicals through materials and articles in contact with the food they eat.

Further delays are not acceptable in the planned revision of the current EU rules on Food Contact Materials to achieve the needed improvements.

ENDS.

ANEC is the European consumer voice in standardisation, defending consumer interests in the processes of technical standardisation and the use of standards, as well as related legislation and public policies.

ANEC was established in 1995 as an international non-profit association under Belgian law and is open to the representation of national consumer organisations in 34 countries.

ANEC is funded by the European Union and EFTA, with national consumer organisations contributing in kind. Its Secretariat is based in Brussels.

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