ANEC contribution to EC consultation on IIA roadmap on Revision of EU rules on Food Contact Materials

It has been known for a long time that the current regulatory framework for Food Contact Materials (FCM) is deficient and puts consumers at risk. Harmonised rules (particularly for plastics) are incomplete and outdated; implementing measures for most other materials are missing. So far, the Commission has done little to improve the situation.

When starting its reflections on regulating printing inks, the Commission expressed some sympathy for the idea to abandon the establishment of detailed provisions, including helpful positive lists of substances allowed to be used. Alas, also the current IIA Roadmap hints at the exclusion of a positive list system from the onset replacing it with a tier approach.

By contrast, we believe that the prevailing system of industry self-control in the field of food contact materials has failed and must be much reduced, whilst assessments by national authorities and EFSA - independent of industry - must be considerably reinforced. Experience has shown private certification bodies not to be "independent" necessarily.

The alternative approach we promote is based on the following principles:

- Radical reduction of substances and materials.
- Elimination of substances of (high) concern in all types of FCM.
- 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. For some materials (e.g. glass, ceramics) it may be sufficient to establish migration limits.
- Expiry date for all authorisations, in line with the provisions for materials in contact with drinking water of the revised Drinking Water Directive.
- Systematic control of authorisations
- A fee system for industry for authorisations, renewals and market surveillance – payable to EFSA and Member States' enforcement agencies. All uses by all manufacturers must be authorised and subject to a fee separately.
- In addition, industry should pay a market surveillance fee payable to Member States' enforcement agencies. In the long run, a system could be envisaged where all toxicity and analytical tests necessary are conceived and commissioned by EFSA at the expense of industry. Such a payment structure

would reduce the amount of substances to be evaluated considerably, and thus would make the system far more manageable.

The IIA roadmap talks about "a generic approach to the assessment and management of those substances with the most hazardous properties". This could mean to use the hazard classes just as an instrument for priority setting of assessments. This is highly questionable. We regret this misinterprets the generic approach to risk management outlined in the EU Chemicals Strategy, which means it as a ban of CMRs and other harmful chemicals in a generic fashion based on the CLP hazard classification. The strategy states "the generic approach to risk management becomes the default option, in particular as regards their use in consumer products".

Of course, next step is the development of conditions of bans (e.g. a monomer cannot be banned simply on the grounds that it is carcinogenic when it is no longer present in the final product in relevant amounts). It can be quickly done by a generic ban of certain classes of substances (subject to exceptions) in legislation and would not be sensible to consider this as a "first tier" of assessment.

More information on ANEC views can be found in *"ANEC reflections on the basic directions for the future development of the EU legislative framework on Food Contact Material (FCM)"* https://is.gd/aLUjFp