

SUBMISSION – December 2014

Submission to

Food Standards Australia New Zealand

in response to:

Consultation Paper - Proposal P1034
CHEMICAL MIGRATION FROM
PACKAGING INTO FOOD

December 2014

Introduction

I trained as a chemist and have worked in the food industry for over 30 years. I have been involved in the assessment of Chemical Migration from Packaging into Food (CMPF) in the past, and in risk assessment. I am currently an independent consultant. With this background I make comments with respect to items put forward in the consultation paper.

Details

Chemical Migration from Packaging into Food

The unintended leaching of some chemicals from packaging may pose a risk to public health, but there is a high degree of uncertainty about the true nature of the problem.

- 1) We do not know enough about leaching
- 2) We do not know if leaching (known or unknown) is a risk to public health
- 3) We do not know enough about the level of risk.

Despite this situation, there are actually very few instances where tangible evidence of health issues arising from CMFP which have not been able to be resolved quickly (although consumer concerns might not be as easily dealt with). With changes in packaging technology, though, we cannot afford to be complaisant. This situation does not support the transference of resources from other programs to investigate the likelihood of future problems.

Current food safety information about CMPF relies on awareness and compliance with overseas regulations, codes of practice, guidelines, or self-imposed safety requirements which in themselves lean heavily on relatively few studies.

The key area of concern at the moment is the rapid development of new technologies, such as nanoparticles, recycling and smart materials about which there are predictions, but not a lot of data.

Direction for Australia?

It has been stated that the current standards in Australia are inadequate for assisting industry to mitigate risks and that it should be more prescriptive. What does this mean? Is industry saying “tell me what test to do, and I will do them, and if I meet the standard, then I will be safe from prosecution”. This position is also benefit of the regulatory authorities required to police the regulations. But this approach will create gaps while the standards try to keep up with the latest knowledge, and puts the onus on FSANZ should an unforeseen situation arise, and might be seen as a barrier to trade if packaging of imported foods was to be subjected to the same regime.

The alternative is to require vigilance by everyone in the supply chain similar to how it is managed at the moment. With anyone able to come under scrutiny, a risk management culture prevails. Large manufacturers, in order to protect their brands, will work with suppliers to ensure to the best of their ability as part of their own supplier quality assurance program that there will not be any issues arising and any new information will trigger the discussion again. SME's should have in their quality systems that they will source from

suppliers who are also servicing the larger companies, and will thereby hand off the coattails of the larger companies. This is not satisfactory from a regulatory authority point of view as they need to review a quality system rather than be able to test materials directly. Should a situation arise in this scenario, then there will be no blame unless manufacturers have gone against their quality systems to purchase from a non-mainstream supplier or failed to carry out their supplier quality assessment. FSANZ may need to reply on behalf of the industry in the situation that the information was unknowable, but where there has been a breach of quality systems the focus will be on those directly responsible.

Achieving the Objective

FSANZ has pre-empted the advice and has recommended a number of objectives for addressing the issue. I have commented on each.

- 1 The establishment of a Packaging Advisory Group (PAG) should assist the flow of information enabling everyone to keep up to date. This will work provided appropriate staff from the key companies are made available, which in itself may require that membership of the PAG be not seen as onerous to either the company or the person concerned.
- 2 Given Australia's size and resources it is unlikely that Australia by itself could generate all the information required to fully understand CMPF. With that being the realistic situation, Australia should be supportive where it can be to work being carried out in the international community such as by reviewing testing protocols, assessing the robustness of published work, providing data on usage of materials and foods they are in contact with, and reporting validated data as requested and being involved in the discussions at an international level.
- 3 Reviewing current regulations in other countries will go some way to informing FSANZ just how robust or otherwise these systems are and the criticism will provide focus for areas for improvement, which is the support work recommended in the previous paragraph.
- 4 Consulting with packaging supply chain members should not be significantly different to working with the PAG as the advice from the PAG should be about all aspects of management.
- 5 Regular surveys of the industry will provide the data to support arguments in the international for a mentioned in paragraph 2.
- 6 Previous surveys are of little use as so much has changed. Surveys need to be current to be of value, hence the timing and the focus needs to be carefully drawn up.

Situation Management

Stakeholders are always going to want more than society is willing to pay, therefore expectations need to be managed (but not dismissed or ignored), and any system needs to take into consideration the increasing international nature of our food. Quality Systems and the appropriate auditing to these seems the most practical approach for managing the situation and having enough information at hand to be able to make sound responses. In order to do this these Quality Systems must include traceability of packaging materials, so that at least any issue can be contained and not allowed to become bigger than it really is.

Traceability is also something that can be required of imported foods without impacting the regulations and requirements of other countries.

History shows that the risks are currently low which doesn't support putting in place a regular monitoring program. Therefore an adequate and appropriate response is the next best option, and this may include educating the public on risk. We can never say never with respect to incidents arising, but we need to manage perceptions that the risk is not higher than it actually is.

Responses to Questions in the Consultation Paper

- 1 History suggests the number of verifiable incidents arising from food packaging in recent times have been relatively few, and the consequent public health effects have not really been proven. There is greater concern with the safety of the foods themselves rather than the packaging. This is no cause for complacency, however, as we need to continually be alert to new situations where an issue might arise. The rise in recycling of packaging and new technologies may introduce issues not previously seen or foreseen. There is always potential for something to migrate into food which is injurious to health in some people, hence the need for ongoing vigilance and continuous improvement.
- 2 With changes continuing to occur in packaging, the concerns cannot be resolved. The best that we can expect is that the questions are being asked on an ongoing basis and that someone has the resources to investigate them. As Australia has both financial and resource restrictions due to its size, the next best approach is to monitor what is happening in the rest of the world and continue to apply a critical eye to any new information which becomes available. All good quality systems require vigilance based on the best knowledge, but there is always something that could come from left field. The major players (countries and manufacturers) who have good systems in place set the standards and respond to the issues. The longer term issues are most likely to arise from small importers which are notoriously difficult to manage, but on the other hand produce a lower volume of goods and for this reason alone will have less impact on the overall health of the community.
- 3 N/A
- 4 N/A
- 5 As has been stated above, the issue of CMPF is one of continuous improvement, and therefore information and advice needs to be sought on a continuous basis.
- 6 Businesses I have been involved with provide specifications for packaging which include compliance with Australian, US and EU legislation. Evaluation of packaging for particular applications was carried out in conjunction with packaging manufacturers. Packaging and regulatory staff were required to be abreast of global information relating to these issues. Where issues were identified, alternatives were found. Incident response with the associated recall capability was in place such that relevant products could be recalled if necessary.
- 7 This information is stipulated on the specification and packaging suppliers are audited for compliance.
- 8 Testing was carried out for those chemicals we knew about.
- 9 Other countries legislation was helpful for allaying customers concerns.

- 10 The EU and US guidelines, requirements and CoPs are what is available, but until we have an issue we will not know how good they are.
- 11 The advantage of the co-regulatory approach is that there will be peer pressure for continuous improvement. The standards set will be around what can be achieved rather than what needs to be achieved to minimise concerns.
- 12 N/A
- 13 N/A
- 14 There are pros and cons to a more prescriptive approach
 - a. Whilst being prescriptive makes it easier for manufacturers (both of food and packaging) to establish whether they might meet a standard dictating presence at a particular level, it can change the mindset from one of looking out for potential issues to one of just ensuring compliance. A prescriptive approach would make it easier for regulatory authorities to prosecute if appropriate.
 - b. Where manufacturers are looking out for potential issues, they will usually be more responsive when a situation arises to be proactive about addressing the issue. These issues may be real, or they may be in response to public concerns whether they be real or just perceived. As there appears to be an increase in the use of recycled materials, development of smart packaging and other developments, extra vigilance is required at this time. Consequently prescriptive requirements are likely to be behind current knowledge,
- 15 In the major business I worked in, packaging was a key component of the quality management system and was tracked as food raw materials were tracked.
- 16 Compliance was with a customised in-house program which was a super set of all the programs given in the question.
- 17 The Quality Assurance program was to set the standards in specifications and to audit suppliers, including checking new materials for CMPF. QC involved checking that the correct materials had been delivered.
- 18 We employed packaging technologists whose responsibility was all aspects of packaging.
- 19 N/A
- 20 N/A
- 21 N/A
- 22 N/A
- 23 N/A

Key Points

- 1 Australia must rely on other countries to do the work, but we can and should provide balanced criticism of assessments of migration and interpretation of risk.**
- 2 Quality systems need to be in place which manage packaging materials as well as food raw materials**
- 3 Communication channels need to be open to facilitate the rapid, accurate situation assessment and appropriate management of incidents**
- 4 Ongoing education of the purpose and hence value of packaging with respect to food safety needs to be enhanced, as well as education around relative risk both with respect to packaging and to other food related issues.**

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