

19 December 2014

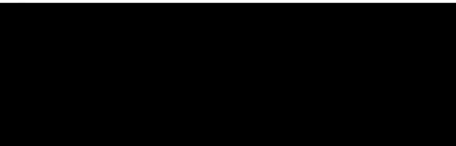
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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the ***Consultation Paper – Proposal P1034 Chemical Migration from Packaging into Food***.

Yours sincerely



Katherine Rich
Chief Executive

Food Standards Australia New Zealand

CONSULTATION PAPER – PROPOSAL P1034 CHEMICAL MIGRATION FROM PACKAGING INTO FOOD

December 2014

The New Zealand Food & Grocery Council (the “NZFGC”) welcomes the opportunity to comment on the ***Consultation Paper – Proposal P1034 Chemical Migration from Packaging into Food.***

New Zealand Food & Grocery Council

NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$34 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$28 billion in export revenue from exports to 185 countries – some 61% of total merchandise exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 46% of total manufacturing income and 34% of all manufacturing salaries and wages. Our members directly or indirectly employ 370,000 people – one in five of the workforce.

Proposal P1034

The Proposal seeks to collect information about the packaging market, what packaging is used and what practices packaging manufacturers and food manufacturers are using to manage any risks relating to chemical migration from packaging into food. This is intended to increase FSANZ’s understanding of the issues and identify any gaps in the current regulatory and non-regulatory approaches for chemical migration.

Overarching Comment

NZFGC considers this matter requires a very measured and reasoned approach. This is because the issues involve multiple unknowns (in terms of substances used, the extent of any migration and the potential impact on humans). NZFGC considers the importance of maintaining proportionality in any regulatory response to chemical migration from packaging to food cannot be overstated.

Some jurisdictions have attempted to manage risks to consumers from chemical migration from packaging to food on a substance-by-substance basis (eg the USA and EU) simply because this has been the approach of the past and these regulations have been built up over many decades. None are succeeding in terms of comprehensiveness. This is primarily due to not being able to accommodate the multitude of developments being undertaken in the packaging and related industries supply chain (not the least recycling), the extensive number of chemicals used at the various, sometimes quite remote, steps prior to the use of packaging by food manufacturers (an estimated 6,000 chemicals in printing inks alone) and the absence of data on human impacts.

Dealing with an issue that involves huge numbers of chemicals that may or may not migrate into food and even when they do migrate, may or may not have a human health impact, requires a smart, balanced and informed approach. This may result in a continued reliance on more general safety measures rather than attempting to address individual chemicals. In a

risk-based environment, it will be important for FSANZ to consider the minimum effective regulation to address any gaps identified in the current regulatory provisions.

Some might be pleased to see that “FSANZ, together with other international scientists and regulators, are focussed on a small number of chemicals of interest” (p7 Consultation Paper). However, even this approach is based on a substance-by-substance approach, which may not be the most effective in an environment that necessarily covers a range of industries ancillary to what we traditionally think of as ‘the packaging industry’ including those dealing with sealants, glues, coatings, printing inks, and recycling chemicals.

Where there are multiple unknowns as noted above, the importance of maintaining proportionality in any regulatory response cannot be overstated.

As well, New Zealand is not a technological market leader in packaging and overseas standards (particularly EU and US FDA standards) therefore play a significant role in the safety regime. The bulk of packaging materials are unlikely to be manufactured specifically for the New Zealand market and any New Zealand standards, if required, should interface seamlessly with relevant overseas standards.

Specific Comments

Question 1. What concerns, if any, do you have about food packaging in relation to food safety?

Response: NZFGC is well aware of the importance of safe packaging for food products. The potential for microbiological contamination and mechanisms to manage such events continue to be a high focus for members. Also high focus is potential chemical migration from sources other than packaging. In this environment, packaging has continued to be viewed, correctly, as a key barrier to both microbiological and chemical contamination from external sources. The main exception to this position is in relation to recycled packaging materials. This area raises more unknowns and potential hazards for food manufacturers than might have been appreciated to date.

As well, in particular industry sectors, especially those whose target consumers are vulnerable populations (the young, old, pregnant or immune-compromised), the safety of the packaging and the packaging environment is a very particular focus. The safety of packaging is therefore of a different magnitude for different groups within the population with the current requirements providing a threshold for the general population to the extent possible. More focus on the risks presented by recycled materials is warranted.

Question 2. What measures do you think could be implemented to resolve these concerns?

Response: NZFGC considers a very measured approach is required in relation to chemical migration issues. As noted above, particular industry sectors such as the infant formula industry, take a significant number of steps to address chemical migration on the basis of the increased vulnerability of the population group when compared to the general population.

NZFGC considers non-regulatory measures for manufacturers of food for the general population should feature in a package of measures. Simply highlighting the need for food manufacturers to be aware of risks of chemical migration from packaging into food is a good starting point. Secondly, raising awareness with packaging manufacturers and importers is also positive. Noting a number of the most at-risk chemicals would be helpful. Thirdly, reference to

the EU and US requirements could be considered along the lines of the provisions in the Australia New Zealand Food Standards Code relating to the addition of flavours to food in Clause 11 of Standard 1.3.1 *Food Additives*. We note, however the limitations of these regulations as identified below and the undesirability of referencing other country regulatory requirements in the Food Standards Code.

Developments and innovations in the packaging area appear extensive. For example, in relation to recycled materials, sophisticated decontamination processes have been developed which are able to manage contaminants comparable to virgin materials in some products (Welle 2011 in relation to PET packaging). A greater focus on such processes for the New Zealand market would be invaluable but reflecting such measures in the Food Standards Code is not appropriate.

NZFGC notes that a number of the chemicals used in packaging are not subject to any global regulation not the least because of the absence of food migration information. Of particular interest is the fact that the EU has “no specific legislation for a range of other food packaging materials including printing inks, coatings, adhesives, paper and board” (p1, SD4 Risk Assessment Approaches) but the Swiss have identified over 6,000 substances for printing inks alone in the last 5 years (p1, SD4 Risk Assessment Approaches).

Similarly we note that the US FDA is “currently attempting to collect and review data for approximately 3,000 food contact substances for addition to the more than 1,300 chemicals currently present in its dietary exposure database” (p2, SD4 Risk Assessment Approaches). In this context, it is important to recognise that even after decades of data collection, the US FDA has currently around a quarter of known food contact substances in its dietary exposure database.

NZFGC considers that dealing with developments in packaging that involves such a substantial number of chemicals that may or may not migrate into food requires a smart, balanced and informed approach that may result in a continued reliance on more general safety measures than attempting to address individual chemicals. Proportionality is key to a FSANZ response that also needs to be “smart, balanced and informed”.

Smart approaches are emerging from manufacturers such as the barrier approach (most recently in evidence in fresh milk packaging by Fonterra). This is also explored in a German study (Biedermann and Grob 2013) which suggested that rather than trying to manage all the substances potentially migrating into food from recycled packaging, manufacturers might take a barrier approach (possibly a coating) which could be a safe and practical alternative.

The FSANZ response needs to take into account industry approaches that can deal with migration issues in different ways.

Question 3. If you are a packaging manufacturer, please detail the type(s) and relative volumes for the different food packaging materials used in your business and whether the main component is imported or made locally (in Australia or New Zealand).

Response: Not applicable to NZFGC.

Outcomes of industry surveys

Question 4. If you are a trade association or peak body, if a risk is identified, do you have the expertise to offer food safety advice on chemical migration from packaging into food (CMPF) to businesses within the packaging supply chain?

Response: NZFGC does not have the expertise to offer food safety advice directly but we would endeavour to assist members in several ways:

- Identifying experts to address issues
- Approaching experts on behalf of members in relation to the issues
- Providing information about risks in conjunction with the regulator (New Zealand Ministry for Primary Industries) and FSANZ
- Supporting members to deal with unexpected and specific events in relation to information, solutions and media.

Question 5. Is there a need for access to further advice on CMPF?

Response: NZFGC considers further advice on chemical migration from packaging to food would be invaluable. Links to collations on relevant websites, research and regulations would be very helpful.

Ways of mitigating risk

If your business plays a role in the packaging supply chain:

Question 6. Can you please identify the risk identification, characterisation and mitigation strategies that your business uses and whether you use any others?

Response: Not applicable to NZFGC.

The regulatory framework in Australia/New Zealand

If you are a food business (manufacturer/importer/brand owner/retailer):

Question 7. Is information readily available on whether or not food packaging (including for home brand products) is made from recycled materials?

Response: NZFGC understands that information on recycled packing is generally readily available from larger suppliers. This may not be the case for smaller suppliers sourcing packaging from overseas suppliers.

Question 8. If yes, how do you ensure that packaging manufactured from recycled materials does not contain chemicals that could migrate into food at levels of potential concern?

Response: Not applicable to NZFGC.

International requirements

Question 9. If you are a packaging or food manufacturer, or industry body; is using another countries' legislation (eg US/EU) suitable to ensure compliance with your customer's needs?

NZFGC considers this could be an option (see response to Question 2 above). However, in a risk-based environment and with an ever expanding list of potential but non-confirmed risks from chemicals, there is the opportunity to take a more measured approach.

Question 10. As a packaging manufacturer or food business, in your experience do the EU or US requirements or guidelines and CoPs adequately manage risks from CMPF from all recycled materials?

Response: Not applicable to NZFGC.

Co-regulation

Question 11. What would you see as the advantages and disadvantages of a co-regulatory approach to managing CMPF?

Response: New Zealand has not, historically, adopted 'co-regulatory' approaches to requirements. However, a similar effect can be achieved through the use of industry/regulator developed 'codes-of-practice' (CoPs) that are presented as one way of meeting a regulatory requirement. Such CoPs have the advantage of presenting a potentially prescriptive mechanism for adoption by businesses that wish to use it, while maintaining maximum flexibility for companies to develop their own systems and approaches should they have the expertise and need to do so. The CoPs operate more in the way of a 'due diligence' approach – 'follow this CoP and you will meet the regulatory requirements'.

Non-regulatory control measures

Question 12. Does Australian Standard for Plastic Materials for Food Contact Use - AS2070-1999 supply useful guidance to industry?

Response: This Australian Standard, AS2070-1999, is intended to apply to the manufacture of the plastics materials (resins, granules and powders) and colorants for food contact use and describes procedures to be followed during the various stages of processing by manufacturers of plastics items for food contact. It has not been published for food processors or manufacturers. Having said that, it would be a useful addition to the source documents for food manufacturers and processors but more accessible information would be preferable.

Question 13. For food businesses, are there other pertinent voluntary industry standards or similar (Australian/New Zealand or International) that you reference and adhere to regularly?

Response: As noted at the outset New Zealand places a heavy reliance on key overseas standards (particularly EU and US FDA standards). In the main, packaging materials are unlikely to be manufactured specifically for the New Zealand market. Any New Zealand standards, if required, should interface seamlessly with relevant overseas standards.

Understanding current industry practices

Question 14. Would you see benefits if a more prescriptive approach to packaging regulations was introduced?

Response: In a risk-based environment, proportionality is a very helpful guiding principle for regulation. Prescription has a role but only to the extent that the regulatory response is proportional to the risk and is underpinned by strong scientific evidence. NZFGC notes that prescription has not historically addressed the rate of innovation and change in the packaging area in major regions/countries where resourcing for regulatory provisions is far greater than is the case in Australia and New Zealand. We need smart requirements that will endure over time. To a large extent we have this with the current requirements but a review in light of current research is still valuable.

Question 15. Regardless of whether you buy or manufacture packaging, do you have a food safety or quality management program for that packaging?

Response: Not applicable to NZFGC.

Question 16. What are the key elements pertaining to chemical migration from packaging of this program (if you have one)? For example, do you comply with a code of practice(s) or a specialist customised in-house program?

Response: Not applicable to NZFGC.

For consideration by food businesses:

Question 17. What quality assurance and quality controls do you currently use to mitigate risks from CMPF?

Response: Not applicable to NZFGC.

Question 18. Do you have in-house technical capacity or expertise related to packaging?

Response: Not applicable to NZFGC.

For consideration by packaging manufacturer/converters/ suppliers (including importers of packaging)

Question 19. If you print on the materials that you produce, do you have a quality assurance and quality control system (or similar) which includes printing inks and related products (eg. resins, adjuvants, mineral oil)?

Response: Not applicable to NZFGC.

Question 20. Do your quality assurance/quality control systems consider the end uses of the packaging?

Response: Not applicable to NZFGC.

Question 21. Do you always prepare a Declaration of Compliance with existing legislation in order to meet your customers' needs?

Response: Not applicable to NZFGC.

Question 22. As a result of international responses to issues with CMPF (eg. Di-2 -ethylhexyl adipate (DEHA)), and management measures undertaken by overseas manufacturers (eg reformulation), have you adopted similar mitigation measures?

Response: Not applicable to NZFGC.

Question 23. Are you aware if semicarbazide is still used in manufacturing of food packaging materials in Australia and/or New Zealand?

Response: Not applicable to NZFGC.

References

Biedermann M, Grob K (2013) Assurance of safety of recycled paperboard for food packaging through comprehensive analysis of potential migrants is unrealistic. *J Chromatogr A*. 1293:107-19.

Welle F. "Twenty years of PET bottle to bottle recycling – an overview" in *Resources, Conservation and Recycling*, Elsevier, Volume 55, Issue 11 (Sep 2011)pp 865-1118.