



## EU Food Contact Materials Legislation

In the previous detailed FC update mail (22/12) and the quarterly update 2020 Q4 (22/01), information was shared on the Roadmap regarding the review of the EU Food Contact Materials Legislation and the feedback possibility offered via the Commission's website.

In total 302 comments were introduced. ECMA posted a position the 18/01, available via the following link and by clicking on "View Feedback received" (page 24) :

<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12497-Revision-of-EU-rules-on-food-contact-materials>

The ECMA position highlights once again the need for accurate communication and a clear determination of responsibilities in the supply chain.

It is essential converters are informed on what needs to be further verified.

Carton makers involved in manufacturing food cartons need to work in accordance with GMP-procedures but can't take responsibility for substances introduced higher up in the supply chain and for which no precise information was shared.

Several national Member Associations posted similar comments, thus providing more coverage for our sector ! Aside these efforts in the consultation process it may however also be valuable to share and discuss the sector statements directly with your national food safety authorities.

Of course, the review will be a recurrent topic on the FCM committee meetings for the Member States at the Commission.

Aside the own position, ECMA contributed to the feedback posted by CITPA.

For those of you who would like to have a direct experience of the Commission's current considerations it is possible to review the "Webinar on the evaluation and revision of the EU Rules on Food Contact Materials" organised on the 20<sup>th</sup> January. The recording is available : <https://vimeo.com/503457715>

## French Decree on the provision of information identifying endocrine disruptors in a product.

The PIJITF meeting on the 25/01 covered the notified new French Decree on the presence of EDC's in products, in the sense of substances, mixtures, articles and foodstuffs. (TRIS system 2020/832/F) <https://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2020&num=832>  
The development of this Decree is related to the French law (No 2020-105) against waste and for the circular economy, published the 10/02 2020.

Article 13-II of this law provides for the use of a Council of State Decree to set the implementing rules for providing information identifying endocrine disruptors in products placed on the market.

The now notified Decree specifies that any person placing on the market products containing substances exhibiting endocrine-disrupting properties according to ANSES (French Agency for Food, Environmental and Occupational Health & Safety) shall publish a list of these products and the substances that each of them contains.

The notified text is indicating the implementation is still discussed.

"Information that may be provided could include, for example: the product category, the trade name of the product, the product reference, the chemical name of the substance with endocrine-disrupting properties, the chemical formula, the CAS number and the EC number of the substance exhibiting endocrine-disrupting properties, or the usual and trade names of the substance exhibiting endocrine-disrupting properties."

Also, the list with EDC substances is still under development and will be divided in two categories, proven and presumed EDC, according to the level of scientific proof.



The TRIS notification mentions the 21/12 2020 as the reception date and a stand still period until the 22/03 2021.

This French Decree is part of the coming ECMA Food Safety Committee agenda on the 18/02.

An obvious comment to make is how the Commission is working on EDCs. A second Annual Forum on Endocrine Disruptors was organised mid December 2020.

In addition any risk assessment needs to take in account both, the hazard of a substance and the exposure and a risk assessment needs to be made, at which levels the presence of the different EDCs are of concern.

## Mineral Oils

Some of you may - via FFI - have had access to the German translation of the comments by the Commission and Spain and the detailed opinion by the Netherlands, regarding the notified German Mineral Oil Ordinance.

Earlier this week ECMA obtained from the Commission the official English translations. (Posted on the Members Only section of the ECMA website or available on demand)

The Commission questions in its comments, if the introduction of functional barriers is effective to protect the public health. As well-known there are many other MOAH exposure sources.

The comments include also questions related to, the missing information on the required effectiveness of the barrier materials and the current analytical capabilities being insufficient to reliably measure for all foods the proposed limits of 0,5 mg/kg food and 0,15 mg/kg in a food simulant.

Finally, the Commission highlights the missing clarity regarding imported products.

"It is stated in the explanatory statement of the draft Ordinance that the obligation to use a functional barrier when placing on the market FCM made of waste paper does not apply, for example, to food business operators who only purchase previously packaged food (including from another EU member state or a non-member state) and for whom the packaging process is beyond their control. It is further stated that in this case, however, the business operator must ensure, as part of his general duty of care, that the products in question meet the requirements relating to the impermissible transfer of MOAH." ...

Spain commented, the Ordinance does not include a mutual recognition clause, there is no scientific evidence proving there is a health risk for German citizens and how the ongoing work at the Commission may lead to a harmonised initiative.

The detailed opinion from the Netherlands contains a legally well-funded argumentation starting from Article 34 TFEU (Treaty on the Functioning of the European Union) prohibiting quantitative restrictions on imports and all measures having equivalent effect between Member States. Obstacles to the free movement of goods must be justified on the basis of Article 36 TFEU. The Netherlands questions if "protection of the health and life of humans" as referred to in Article 36 can in this case, be invoked. Obstacles to the free movement of goods must be necessary to achieve their objective. In addition, obstacles must be proportional, because they are appropriate for the objective pursued, do not go beyond what is necessary to achieve that objective and the objective cannot be achieved by other less restrictive measures.

Similar to the Commission, The Netherlands questions - in view of the many different sources - if the Ordinance is appropriate for achieving the stated objective of protecting consumer health. The opinion also expresses, the Ordinance is going beyond what is necessary, as the included limits are much stricter than the action limit set by the European Commission for the total presence of MOAH in infant formulae, irrespective of the origin of the MOAHs, i.e., 1mg/kg per C fraction. [ $\geq$ C10 -  $\leq$ 16 /C16-25/C25-35/C35-50] In support of those reservations, reference is made to reports by the Dutch National Institute for public health and the environment (RIVM).

The carcinogenic fraction of MOAHs is found in crude or inadequately purified mineral oils and oils that have been heated and it makes sense to identify the sources from which this type of MOAHs end up in food. Still according to RIVM the MOAH exposure via dry foods, packed in cardboard packaging made of recycled materials, is only marginally contributing to the total exposure.

The opinion notes finally that the German authorities have also not examined if the objective of protecting consumer health can be achieved by less restrictive measures.

(Background on the RIVM studies was circulated in FC updates 13/04/18 and 06/07/18)

As the extended standstill period is ending on the 18/02, we may soon have a view on how the German authorities intend to take in account all those comments.



For France (See FC update 23/04/20) the national law (No 2020-105) against waste and for the circular economy, contains a ban on mineral oils in packaging from the 1/01/22 on and for paper printing targeting the public from the 1/01/25. For promotional leaflets and the circulation of non-requested commercial catalogues the ban is already applicable from the 1/01/23.

The press seems to be exempted.

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041553759&categorieLien=id>  
(See Article 112)

[https://www.legifrance.gouv.fr/eli/loi/2020/2/10/TREP1902395L/jo/article\\_112](https://www.legifrance.gouv.fr/eli/loi/2020/2/10/TREP1902395L/jo/article_112)

These restrictions are now also incorporated in the recently published Decree N°2020-1725 (29 December 2020) on modifications regarding the extended producer responsibility.

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042754025>

In Article 2 (2°) is stated how the ban is applicable to the mineral oils which contain substances disturbing paper recycling or which are limiting the utilisation of materials made of recycled paper and board. A ministerial order will define the concerned substances.

### **Upcoming Food Safety Congresses and Seminars**

The list below is providing an indicative overview.

From the same institutes other seminars may be of interest or the events may also take place at additional dates.

16th February (online)

Innoform Coaching “Migrationsprüfungen an Lebensmittelverpackungen

[https://www.innoform-coaching.de/co\\_neu/de/webseminar/migrationspruefungen-an-lebensmittelverpackungen-2021](https://www.innoform-coaching.de/co_neu/de/webseminar/migrationspruefungen-an-lebensmittelverpackungen-2021)

18th February (online)

Innoform Coaching Non Intentionally Added substances (NIAS) Analytik und Bewertung.

[https://www.innoform-coaching.de/co\\_neu/de/webseminar/non-intentionally-added-substances-nias-analytik-und-bewertung-2021](https://www.innoform-coaching.de/co_neu/de/webseminar/non-intentionally-added-substances-nias-analytik-und-bewertung-2021)

23-24 February (online)

Chemical Watch Food Contact Regulations Europe 2021

<https://events.chemicalwatch.com/119284/food-contact-regulations-europe-2021>

25-26 February (online)

Chemical Watch Food Contact Regulations US 2021.

<https://events.chemicalwatch.com/119286/food-contact-regulations-usa-2021>

2 March (online)

PTS Seminar “Introduction to compliance work and quality assurance for paper and board in contact with food. (FCM)

[https://www.ptspaper.com/events/?status=details&event\\_id=10449&cHash=95ae44280a40e00f732542deb98f08a](https://www.ptspaper.com/events/?status=details&event_id=10449&cHash=95ae44280a40e00f732542deb98f08a)

3-4 March (online)

PTS Conference “Paper and Board for Food Contact”

[https://www.ptspaper.com/events/?status=details&event\\_id=10450&cHash=c111c021fb2ab088caa1c59cbec43253](https://www.ptspaper.com/events/?status=details&event_id=10450&cHash=c111c021fb2ab088caa1c59cbec43253)

23-25 March (online)

Annual GFSI Conference

<https://mygfsi.com/events/gfsi-conference/>

24 -25 March (online)

Keller & Heckman EU Food Packaging Law Seminar 2021

<https://www.khlaw.com/EU-Food-Packaging-Law-Seminar-2021>

31 March - 1 April (Osnabrück)

Innoform Coaching “Der BRC Global Standard für Verpackungsmaterialien - ein Jahr nach der Umsetzung. Ergebnisse und Rückschlüsse

[https://www.innoform-coaching.de/co\\_neu/de/seminar/der-brc-global-standard-6-was-ist-neu-was-hat-sich-bewaehrt-2021](https://www.innoform-coaching.de/co_neu/de/seminar/der-brc-global-standard-6-was-ist-neu-was-hat-sich-bewaehrt-2021)



27 April (online)

Fresenius Workshop “How to identify Endocrine Disrupting Chemicals.”

<https://www.akademie-fresenius.com/events/detail/produkt/online-workshop-how-to-identify-endocrine-disrupting-chemicals-2/>

28 April (online)

International Akademie Fresenius Conference “QSAR and Read-Across in Toxicological Assessments”

<https://www.akademie-fresenius.com/events/detail/produkt/international-akademie-fresenius-conference-qsar-and-read-across-in-toxicological-assessments-o/>

4 May (online)

Fresenius course “EU Food Contact Legislation”

<https://www.akademie-fresenius.com/events/detail/produkt/international-akademie-fresenius-fcm-online-course-eu-food-contact-legislation/>

5-6 May (online)

Keller& Heckman “Paper Packaging Law Seminar”

<https://www.khlaw.com/2021-Paper-Packaging-Law-Seminar>

25<sup>th</sup> May (online)

SVI Jahrestagung 2021 “Lebensmittelverpackung der Zukunft.”

<https://www.svi-verpackung.ch/de/Veranstaltungen/SVI-Jahrestagung-2021>

14-16 June (online)

Smithers Global Food Contact

<https://www.food-contact.com/global-food-contact>

24-25 June (online)

10<sup>th</sup> International Akademie Fresenius Conference “Residues of Food Contact Materials in Food”.

<https://www.akademie-fresenius.com/events/detail/produkt/10th-international-akademie-fresenius-conference-residues-of-food-contact-materials-in-food-onl/>

7-8 September (Munich)

PTS Coating Symposium 2021

[https://www.ptspaper.com/?status=details&event\\_id=10478&id=3059](https://www.ptspaper.com/?status=details&event_id=10478&id=3059)

