

# EU laws on chemicals in food contact materials: a system in dire need of reform

A joint presentation from four EU Environment, Health & Consumer NGOs

24th September 2018

## Contents

- Introduction to the four NGOs
- 1. Deficiencies in the current system for regulating chemicals in food contact materials
- 2. Case studies and consumer concerns
- 3. Key requirements for a new system
- 4. Transparency and participation
- Conclusions



## **About CHEM Trust**

- A charity working for over 10 years, mainly at EU & Global levels, to protect humans & wildlife from harmful chemicals
- Focus on identification of, and action on, endocrine disrupting chemicals
- Have highlighted problems with FCM regulation for >4 years, including organising a workshop on FCM & REACH

/ (2) Pro	HEMTrust Recting humans and wildlife in harmful chemicals				
About Our work	Chemical problems	Health Impacts	Wildlife Impacts	Chemicals policy	Take Action
Chemicals in Food Contact Materials				POPULAR POSTS Hazardous chemicals and phate packaging: what are the concerns? Companies putting subticities in an rest try replacing mee twentful chemical with similar, potentially table, allowed was	
<ul> <li>Update, May 2018: For an up-to-date summary of the problems with chemicals in food contact materials, and the failing EU regulation system, see this new presentation at a Chemical Watch conference: "EU regulation of chemicals in Food Contact Materials: Outdated, institutive — and full of holes". Chemical Watch's coverage of the conference, repeats peril of our title: "EU regulation of FCMs' outdated and full of holes".</li> </ul>			Which shortleds contaminate our backes? The EU Biomorbacks initiative is trying is find out Hear-state them cake in sheater packaging; an initial analysis Modificus, in the Environment: A Growing Thereim Wildelfs and Drinking White EU anneumous plan to neated planate		
Chemicals used in these materials are regulated at EU level by a " <u>Framework Regulation</u> " which requires that FCMs "do not transfer their constituents to food in quantities which could endanger human free/I/".				microbacts and two degradable plastics Should the UK stylin the TU Chemical Agent Phot-Direct? Lated from UK Pactement, Cello and Article 50 Teaktarce	
However, beyond this requirement, some m plastics are regulated	aterials like		1	CHEM TRUST See our latest nervel Stor have to subscribe	

 See: <u>www.chemtrust.org/fcm</u>



## About ClientEarth

- A non-profit environmental law organisation providing legal expertise in the public interest to tackle environmental challenges
- ClientEarth scrutinises decision-making processes, challenges illegal applications of the law, and pushes for transparency in decision making.
- The Chemical Team has been active at EU level for 10 years focusing for example on REACH, as well as on Regulation 1107/2009
- See <a href="https://www.clientearth.org/chemicals/">https://www.clientearth.org/chemicals/</a>



## **BEUC** is proud of its members



## **About HEAL**

#### 75 organisations in 28 countries

- Doctors associations
- Patient groups
- Nurses associations
- Public health institutes
- Research institutes
- Not-for-profit health insurers
- Women's groups
- Youth groups
- Environmental groups



Focus areas Health & Diseases Toxic Chemicals Climate & Energy Air quality

#### Secretariat for the EDC-Free Europe

- Coalition of > 70 health & environmental organisations in Europe
- Supported by 11k individuals
- Raise awareness and urge faster governmental action on EDCs



#### 1. Deficiencies

## A system full of holes

- The system is incomplete, with many FCM materials not properly covered
  - 2012 Sanco Roadmap: "Materials on the market are not safe"
  - EU FCM regulations do not properly cover materials including paper, ink, coating & adhesives
- Recycling of paper and card food contact materials is essentially unregulated
- An inefficient system, with slow processes:
  - Repeated assessment of *known* chemicals of concern (e.g. BPA) while neglecting similar substances of concern (e.g. BPS, BPF).

## An unreviewed system

- The Roadmap for this process admits that there has been "No formal evaluation work or reports" done on the 2004 legislation
  - This is in contrast to REACH, for example, which has been reviewed every 5 years (as are many other EU environmental policies)

#### Promoting the lowest common denominator

- A few countries have created national regulations for the missing materials
- But the 'mutual recognition' system then undermines the national regulations, enforcing the lowest standards in the EU

## An outdated system

- No promotion of substitution to safer chemicals
- No Grouping or mixture assessment
- No link to REACH SVHCs and Authorisation

– No other cut off criteria, e.g. CMRs

- No link to REACH Restrictions
  - e.g. the four phthalates Restriction, which includes mixture additivity

#### 2. Case studies

0

11

Plastic Soup @plasticsoupfoun - Sep 5

03

very small amounts (i)Forbrukerradet buff)y/2wknVA

Drinking bottles leach chemicals: recent test by the Norwegian Consumer

Council shows that many of the reusable water bottles leach phthalates, bisphenol A, lead and other dangerous chemicals into the contents – albeit at

#### **Recent tests by European consumer organisations**

#### **Fluorinated compounds**

5 consumer organisations **find** high levels of fluorinated compounds (PFAS) in one third of tested fast food packaging. Some PFAS are suspected CMRs/EDCs

use of fluorinated compounds in paper and board FCM is (essentially) unregulated

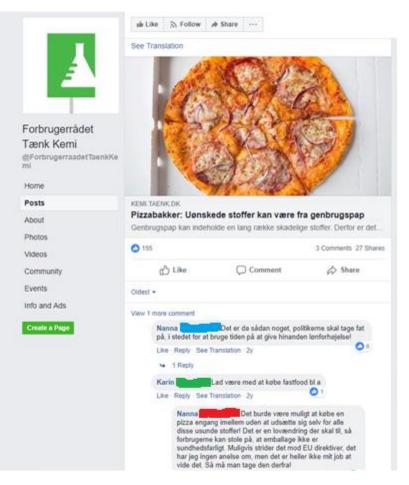




A test in Norway <u>shows</u> that reusable water bottles leach phthalates, bisphenols, lead and other dangerous chemicals into their content – at levels below current limit values → but what about our <u>total</u> exposure?

#### 2. Case studies

### **Consumers** <u>are</u> concerned



More than four in five Europeans (84 percent) report concerns about chemicals in everyday products (up from 43 percent in 2014)

Concerns across the EU, incl.
 Southern and Eastern Europe

Less than half of EU citizens feel well informed about the potential dangers of chemicals

**Sources:** Special Eurobarometer 468 'Attitudes of European citizens towards the environment' (2017); Special Eurobaormeter 465 – Chemical Safety (2017); Special Eurobarometer 416 'Attitudes of European citizens towards the environment' (2014)

# Key requirements for a new system to protect public health

- Urgently address in EU law:
  - 1. Regulation for <u>all</u> FCM (paper, ink, coating, adhesive, etc...)
  - 2. Integration with REACH information on chemicals & include action on substances of very high concern, cut off criteria, mixtures and grouping to avoid regrettable substitution
  - 3. No hormone disruptors (EDCs)
  - 4. The system must address all FCM materials and finished food contact articles, including non-intentionally added substances
  - 5. The cocktail effect must be considered in regulation
- Contribute to creating a clean circular economy
- Innovation to safer materials / services
- Publish the non toxic environment strategy and the EDCs strategy update

## **Transparency: refresher**

Court of Justice of the EU

"[...] by increasing the legitimacy of the Commission's decision-making process, transparency ensures the **credibility** of that institution's action in the minds of citizens and concerned organisations and thus specifically contributes to ensuring that that institution acts **in a fully independent manner and exclusively in the general interest**."

ClientEarth v. Commission 4 September 2018 C-57/16, § 104

## **Transparency and REFIT**

## Identified as "a basic problem" in Roadmap

× Focus limited to EFSA



Needed:

**Extend** focus on Commission

4. Transparency and participation

## Transparency: what to fix?

- Technical "expert group": extensive list of tasks
  - × Industry only
  - × No disclosure of activities
- = Legitimacy, good administration, legality...

• Another way exists !





# Conclusions

- The current system is not fit for purpose
  - The review must include analysis of options to improve the regulatory system, not just backward-looking analysis
- A new protective & effective system is needed
  - Properly aligned with REACH, covering all food contact materials and articles, with transparency and participation

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