An Opportunity to Improve European Regulation for Chemicals in Food Packaging

Unwrapped conference
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• The main EU chemical law REACH
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About CHEM Trust

• A charity working at EU, UK, German & global levels to protect humans & wildlife from harmful chemicals
• Focus on identification of, and action on, hormone disrupting chemicals
• Working with scientists, technical processes and decision makers, in partnership with other civil society groups
• See our blog & twitter for more: www.chemtrust.org @chemtrust
EU and chemical regulation

- EU market is >500 million consumers
- Most product regulation agreed at EU level
- Rules agreed by Member State governments and members of European Parliament, based on drafts from the European Commission
  - Detailed implementation: Commission & Member State experts
- Pretty comprehensive chemical-related laws
- Most important: REACH, the regulation of general industrial chemicals
- Others include: pesticides, biocides, cosmetics & food contact
- Industrial emissions law, based on ‘Best Available Techniques’
Chem Trust - REACH in one slide

Industry

Regulator (ECHA & EU Governments)

- Downstream Users
  - Safety Data Sheets
  - Registration dossier
  - Self-classification

- Producers/Importers
  - Completeness check
  - ECHA Registration Database

- Completeness check
  - Dossier Evaluation/Compliance check

- External research on the substance

Risk not adequately controlled

Restriction

- Prioritisation

- Authorisation

All use in EU banned apart from those authorised (with review period) and any exemptions

Substance Evaluation

- Prioritisation

Substance of very high concern (SVHC) designation

- Prioritisation

Bans on all/some uses, including presence in imported products and can include production & import

Classification and labelling inventory

Harmonised classification and labelling

- Creates Right to Know & market pressure

- e.g. CMR classification leads to automatic or semi-automatic controls in other laws
Some REACH controls

Adopted restrictions

• Four phthalates
  – DEHP/DBP/BBP/DIBP banned from July 2020; a few exemptions (inc FCM)

• BPA in thermal paper
  – From 2\textsuperscript{nd} Jan 2020
  – Not BPS yet; chemtrust.org/toxicsoup

• PFOA and salts
  – From July 2020

• 33 CMRs in textiles
  – From October 2020

In progress

• Deliberately added Microplastics

• CMRs etc in tattoo inks

• Various PFAS
  – Long chain PFAS
  – GenX PFAS
  – PFHxS, its salts and PFHxS-related substances
Reach is not perfect...some problems

• **Registration**
  - Poor quality data
    • NGOs highlighting this issue, industry embarrassed
    • ECHA improving checks
    • “Echa is to quadruple the number of compliance checks it carries out to a fifth of all REACH registration dossiers”
  - Lacking data on neurodevelopmental impacts – see chemtrust.org/brain

• **Evaluation**
  - Too slow
  - Too easy for industry to create delays

• **Restriction**
  - Too slow
  - Not enough grouping
  - Little consideration of mixtures
  - Too many exemptions

• **SVHC & Authorisation**
  - Too slow
  - Not enough grouping
  - Safer alternatives not always recognised

• **All priorities for EU NGOs**
EU laws on chemicals in food contact

• Separate laws on chemicals in food contact materials
  – Includes food packaging, but also kitchenware, pipes in factories etc

• Main law just has an overall safety phrase:
  “do not transfer their constituents to food in quantities which could endanger human health”
  – A few materials have specific rules:

• Positive list of chemicals for plastics & a few other materials
  – Data submitted, approved by EU regulator EFSA, not really updated

• No EU list for other materials like paper, card, inks, glues, coatings
  – (some national laws e.g. Germany)

• Recycled plastics regulated, not other materials

• No direct link to REACH e.g. no controls on SVHCs
## Time lines of REACH & FCM

<table>
<thead>
<tr>
<th>Year</th>
<th>REACH</th>
<th>Food contact</th>
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<tbody>
<tr>
<td>2004</td>
<td></td>
<td>Framework law enters into force</td>
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<tr>
<td>2007</td>
<td>Enters into force</td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td></td>
<td>Plastics law enters into force</td>
</tr>
<tr>
<td>2012</td>
<td>First REACH review</td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td>Second REACH review</td>
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<tr>
<td>2018</td>
<td>Final REACH phase-in deadline</td>
<td>Review of FCM laws starts</td>
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A review of the FCM law

- **Current review looks backwards**
  - i.e. how is current law working (badly!)
  - Underway at the moment, reporting end 2019/early 2020
  - NB: EU also looking at how EDCs are addressed by chemical laws in a separate (but linked) review

- **New European Commission starts later this year, new EU Parliament already elected**
  - Key message to them: A new comprehensive FCM law is needed

- **NGOs have worked together to agree 5 key principles for a new law & we are now working to get wider support for them:**
Five key principles for new EU FCM laws:

• **A high level of protection of human health**
  • All substances used in food contact materials should have adequate safety data, provided by industry and should be regularly reviewed for this use by public authorities. The presence of substances that are already restricted in the EU, and those meeting the REACH criteria for Substances of Very High Concern, should be automatically prohibited.

• **Thorough assessment of chemicals in materials and final articles**
  • The presence in, and migration of, chemicals in food contact articles – including Non-Intentionally Added Substances (NIAS) – should be measured, assessed and controlled.

• **Effective enforcement**
  • National governments must ensure effective enforcement, including checks on both imported and EU-manufactured finished articles using the best available analytical methods.

• **A clean circular economy based on non-toxic material cycles**
  • As the EU’s transition to a circular economy gains momentum, it is vital that the EU’s efforts to encourage recycling do not perpetuate the use of harmful chemicals in FCM.

• **Transparency and participation**
  • Supply chains and final consumers should have a right to know the identity and safety information…

[https://chemtrust.org/5-key-principles-fcm/](https://chemtrust.org/5-key-principles-fcm/)
Next steps & conclusions

• Increasing the profile of the chemicals in food contact materials issue
  – At EU level with Commission & Parliament, also at national level to encourage government action
  – Both publicity and direct lobbying

• Pushing for rapid drafting of a new law
  – With close integration with REACH system

• Legislative process around 2-4 years, once started
  – new MEPs and Commission are in place for 5 years

• Support welcome! – michael.warhurst@chemtrust.org
Useful links

• CHEM Trust: https://chemtrust.org/
  – Food contact page: https://chemtrust.org/food-contact/

• EU Commission review of FCM laws:

• ECHA REACH information on chemicals:
  – https://echa.europa.eu/information-on-chemicals

• Food Packaging Forum:
  – https://www.foodpackagingforum.org