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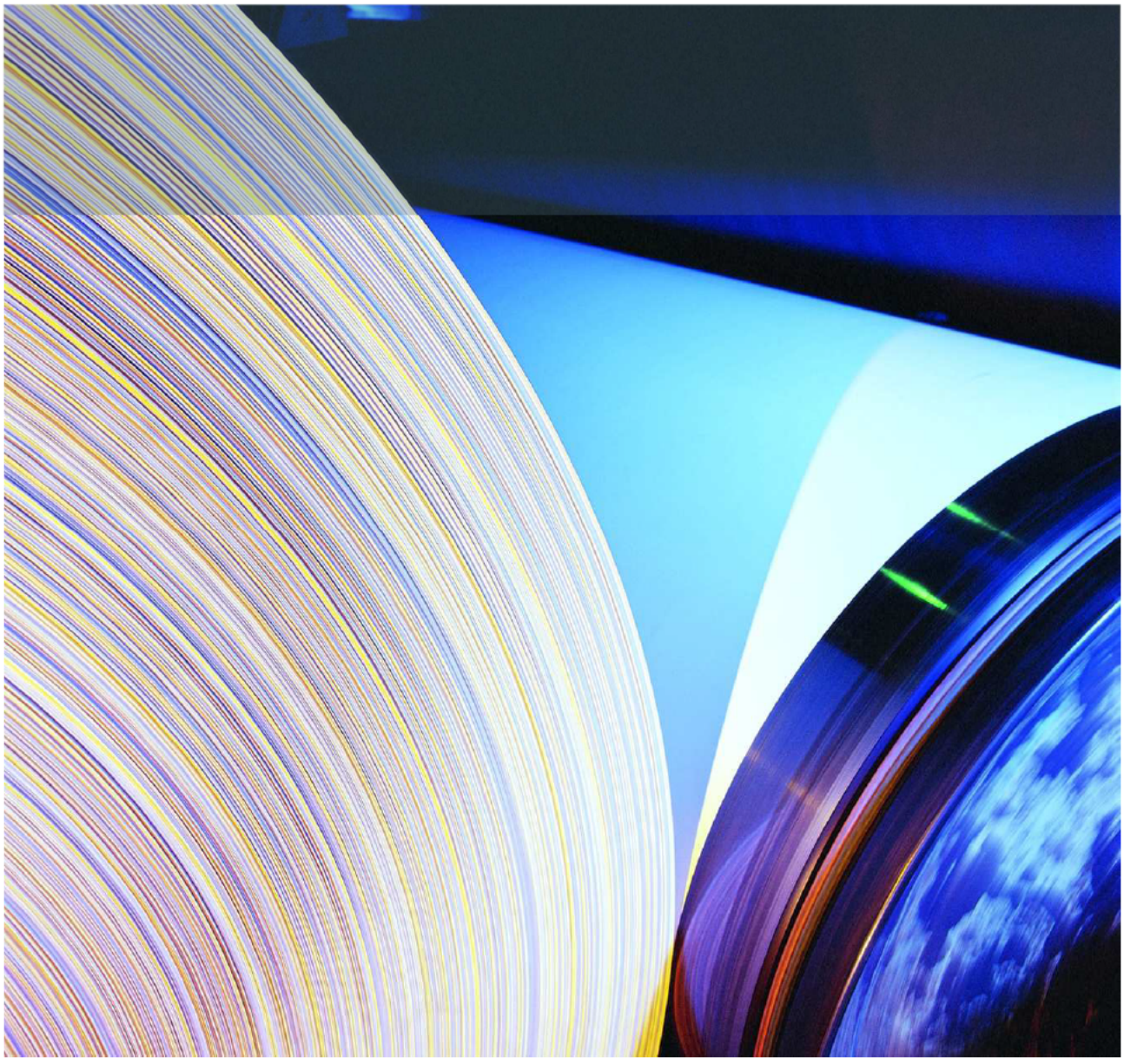
Submission – Proposal P1034

Chemical Migration from Packaging into Food



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REPORT INFORMATION SHEET

REPORT TITLE	***SUBMISSION – PROPOSAL P1034*** ***CHEMICAL MIGRATION FROM PACKAGING INTO FOOD***
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CONFIDENTIALITY REQUIREMENT	PUBLICLY AVAILABLE
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Q1 Do you consider that an ongoing monitoring and surveillance strategy, possibly by jurisdictions responsible for enforcement and compliance of food laws would be a practical measure to identify and manage unknown risks associated with CMPF?

Yes, an ongoing monitoring and surveillance strategy led for example by "the Implementation Sub-Committee for Food Regulation" (ISFR) could be a practical measure to identify and manage risks associated with CMPF. However the usefulness of such a measure will be determined by the format of the surveying program that is going to be used (e.g. frequency of surveying, type of packaging material and supply chains chosen for surveying and type of test methods used).

A monitoring program might also raise further awareness for food companies and highlight their accountability to ensure that the packaging they are using is safe.

Q2 Do you agree that FSANZ's analysis of control measures and market information accurately represents how CMPF is being controlled in Australia and New Zealand? If, not please state your reasons?

The information collected by FSANZ looks reasonable in regard to regulatory and non-regulatory measures used. However, it should be considered that the survey solely relied on voluntary information and therefore the figures given might not portray the whole picture.

Also it should be noted that it is not really possible for packaging material suppliers and converters to claim that their packaging is compliant unless they know from their customers how the packaging is going to be used and complete tests accordingly (e.g. what product it contains, temperatures of use, and length of exposure).

Q3 For any industry stakeholders who have yet to respond to FSANZ's call for information: What control measures for CMPF does your business use?

Question was answered in previous submission in Dec 2014

Q4 What problems can you identify with the status quo option and therefore abandoning this proposal?

In our opinion there is room for improvement in the current code in the areas of ensuring public health and safety and in providing more clarity and guidance for food businesses, packaging suppliers and raw material manufacturers. Therefore, abandoning this proposal is not a sensible option.

Q5 If you consider that a prescriptive approach is the most appropriate option as per either the US/and/or EU approach, FSANZ invites you to elaborate on those reasons. Specifically, please provide the pros and cons of this position in order to further identify costs and benefits for consumers, industry and government of taking a prescriptive approach?

The adoption of a prescriptive approach is not regarded as the most appropriate option, however in the following pros and cons for such an approach are given:

Pro:
Positive and negative lists are easy to follow and provide clear rules for companies in regard to food contact compliance.

Companies exporting their products to the US and/ or Europe need to show compliance with these regulations anyway. Therefore, it would make it easier and cheaper for these companies if the decision was made to adopt either the US and/or EU regulation.

Con:
The adoption of either the US and/or EU regulations to Australia and New Zealand might be a disadvantage for small companies. The requirements listed in these regulations are quite extensive and usually require a wide variety of compliance testing. This might pose a financial burden on small companies without necessarily increasing health and safety of the public.

There is a risk that adopting those stringent and inflexible regulations might pose a barrier to innovation for companies in Australia and New Zealand. As the surveys conducted by FSANZ on CMFPS showed, the estimated exposure to packaging chemicals detected in Australian and New Zealand foods and beverages are below internationally recognised safe levels and present a negligible to low risks for our population. Therefore, it might be possible to adopt an approach that is less rigid than a prescriptive approach allowing more flexibility in regard to new and innovative packaging materials.

Q6 What do you see as the costs/benefits of this option for consumers, industry and government? Do you consider it would ensure industry has adequate knowledge of the risks from CMPF and implemented available risk mitigation measures?

A benefit of information/awareness programmes is that they target the whole supply chain including the consumers. Educated consumers are able to drive change by making informed choices.

However, one challenge will be to engage those who are not interested. Some businesses are already well informed and ensure that their products are safe, whereas others are either not aware or do not see the need to act. Information/awareness programmes might not reach those companies. In our opinion, combining information/awareness programmes with ongoing monitoring and surveillance would drive companies to improve their awareness of CMPF.

We are not in a position to make a statement in regard to costs involved.

Q7 Focusing on the three key areas outlined above, what information do you think would be the most suitable to include in an information/awareness program?

The risk posed to consumer safety and subsequently loss of sales. Risk to business. Liability. Including examples of how CMPF has impacted businesses in the past (e.g. ESBO, BPA).

Case studies on how model businesses deal with the obligations to use safe packaging materials and mitigate the risk of CMPF. A simple online tool to give guidance to companies on how to manage the risk of CMPF.

Q8 Do you agree that FSANZ, the AFGC/NZFGC and packaging peak bodies are the most appropriate organisations to undertake this program? If not, can you identify other appropriate agencies, and peak bodies?

Yes, FSANZ and AFGC/NZFGC NZFSC and packaging peak bodies are suited to undertake such a program. However it might be worthwhile to include industry advisory groups, as well.

Q9 What are the perceived cost and benefits for industry, consumers and industry of a non-regulatory approach? Do you think either option 3a, 3bor 3c would be cost effective?

We are not in a position to make a statement in regard to cost/benefit.

Q10A guideline would involve a degree of prescription (although it would not be mandated in the Code). FSANZ invites stakeholders to identify the costs and benefits to industry, consumers and government of this approach in assisting industry (specifically SMEs) with identifying, characterising and managing risks arising from CMPF.

A benefit of the graduated approach is that it will provide high protection for the public by efficiently mitigating risk from CMPF without being too much of a burden to food businesses, packaging industry and raw material suppliers. In addition, this approach should provide more flexibility in regard to new and innovative packaging materials without compromising the safety of the public.

The idea of preparing a specific guideline for this approach is appropriate and should provide the much needed clarity and clear rules for industry.

Q11Would the above information be appropriate for including in a guideline or can you identify others that should be included?

The information listed in the submission document (see page 17) is regarded to be appropriate for inclusion in a guideline. In the following, a few comments are made to further specify the requirements.

- a description of the regulatory requirements relating to managing the public health risk from the migration of chemicals from packaging into food

  Comment: This needs to be divided into different types of packaging materials.

- identifying where the responsibility lies for ensuring chemical migration risks are managed

  Comment: The responsibilities along the supply chain should be clarified (from raw material supplier to food business). To obtain a safe product all parties need to work together and share information.

- steps industry might take to demonstrate compliance with the regulatory requirements

  Comment: Include compliance testing requirements for different types of packaging materials, types of food packaged and storage conditions. Maybe include examples of compliance certificates.

Maybe there is a possibility to create a free hotline or advice bureau for questions in regard to food contact compliance for Australia and New Zealand.

Q12 Should all the industry standards and CoPs identified in option 3b be included in a guideline under this current Proposal (versus a separate process) to maximise coverage of all requirements for packaging or only specific ones that include reference to food safety measures or prescribed limits in them? In your answer please be as specific as possible to identify the most-appropriate guideline that would address CMPF.

There is the risk that including all industry standards and CoPs listed in the submission document (see page 14) will create more confusion than clarity. Some of these documents are quite generic and it is difficult to find answers to specific questions related to food contact compliance.

If all industry standards and CoPs are going to be listed an indication should be given which type of packaging materials are applicable and what type of information is covered.

The “CEPI Industry Guideline for the Compliance of Paper & Board Materials and Articles for Food Contact” is very useful for the compliance of paper and board products.

The “EuPIA Guideline on Printing Inks applied to the non-food contact surface of food packaging materials and articles” is very useful for the compliance of printed packaging products.

The “Union Guidelines on Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food” is very useful for the compliance of packaging products made from plastic.

Q13 What do you see as costs and benefits for government, consumers and industry of this measure? Would it be cost effective? Please detail any other options that you think are appropriate, or available, to strengthen or clarify existing Code requirements and the reasons why, including the costs and benefits of such a measure?

Reviewing the Food Act provisions to regulate the activities of the food packaging industry might help to provide clarity about their responsibilities in regard to CMPF and product safety. A change in the Food Act provisions to include packaging materials might also encourage the sharing of information in regard to compliance of raw materials and packaging products along the supply chain.

We are not in a position to make a statement in regard to costs involved.

Q14 Do you consider that there is scope to improve the Food Acts provisions regulating the sale of food packaging in Australia and New Zealand?
(Chapter 2.3.4.1 Option 4: Graduated approach; p. 16-18)

No comment.

Q15 Do you consider that the Code should include specific limits for DEHP and DINP for all foods similar to the limits set used for other packaging chemicals (tin, vinyl chloride and acrylonitrile). What do you see as the costs and benefits to industry, enforcement agencies and consumers of this approach?

This depends on the approach taken.

If other countries` regulations are being recognized in Australia and New Zealand, it needs to be checked that high risk substances such as DEHP and DINP are included in these regulations to ensure public safety.

If a non-regulatory approach is taken, the risk of substances such as DEHP and DINP to public health and safety needs to be highlighted and evidenced. Ways to mitigate this risk should be communicated to companies and consumers.

If a graduated approach is being taken and if the study that FSANZ is currently conducting on levels of DEHP and DINP found in a wider range of foods indicates that there is a risk to the public health and safety, then specific limits for DEHP and DINP should be included in the Code. This is a very effective way to ensuring that exposure to DEHP and DINP for consumers will be kept to a minimum.

Cost is compliance cash to conform and label changes.
Benefits are potentially more sales and trust by consumers.

Q16 Which peak bodies should be involved in familiarising industry with any new provisions or raising awareness of CMPF?

Packaging Council of Australia
Packaging Council of New Zealand
National Packaging Covenant Industry Association
Food and beverage industry associations

Q17 How could post-market surveillance be conducted satisfactorily? Who would undertake such surveillance?

The post-market surveillance for CMPF should be conducted in the same manner as monitoring of the safety of the food supply. It should be conducted by FSANZ and other Australian and New Zealand government agencies.

Q18 How will the options listed affect you; such as the choices available to your business and current process practices, consumption choices or regulatory activities?

We are a Crown research institute and one of our research and development areas is packaging materials. Therefore, our innovations will benefit if there is more clarity and certainty in regard to requirements for food packaging materials.

Q 19 Are there other affected parties that have not been identified by FSANZ that you feel should be included?

No comment.

Q 20 Are there specific costs or benefits to consumers, industry and/or government that you feel should be considered in a future Regulation Impact Statement? If you have any data or information to support your views on these questions, FSANZ would welcome the opportunity to consider it.

No comment.