Nestlé Submission

Proposal P1034

Chemical Migration from Packaging into Food

Call for Submissions

August 2016

[redacted]
Corporate Packaging Manager

Executive Summary

This submission is made on behalf of Nestlé Australia Ltd and Nestlé New Zealand Ltd.

Nestlé welcomes the opportunity to provide comments in response to the Call for Submissions – Proposal P1034 on the Chemical Migration from Packaging into Food.

Nestlé supports the voluntary addition of Vitamin D to breakfast cereals, without passing Nutrient Profiling Scoring Criterion (NPSC).

As the consultation review states, there is a community benefit to allowing the addition of Vitamin D to all breakfast cereals, without making this permission conditional on applying the NPSC.

QUESTIONS

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?

From a monitoring perspective, Nestlé supports the above suggestion. This should be considered as part of a revised system of control of which monitoring is only one part.

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?

Nestlé agrees that FSANZ's analysis accurately represents how CMPF is being controlled in Australia and New Zealand.

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?

Please refer to previous Nestle responses in relation to this question. To re-cap, Nestlé aligns with the EU regulations and the Swiss Ordinance for Printing Inks.

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

For companies following internationally recognised regulations, requests to packaging suppliers for details ingredient information, may be met with responses indicating that they are not willing to divulge ingredients used to make their packaging, or on occasion, it may be found during investigating a new packaging supplier, that suppliers may be using ingredients at levels considered unsafe. It may be the case that other food packers could be using these materials without an understanding of the apparent consequences. This lack of standards or a level playing field could allow questionable health issues to arise in Australia and NZ.

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?

Nestlé does not consider a prescriptive approach as the best answer. It would be advantageous if legislation were introduced to assist food manufacturers to obtain information from the packaging supplier on the packaging ingredients which would then enable the food manufacturer to evaluate the material for safety. It is often difficult to obtain a complete list of ingredients from some packaging suppliers. To enable food manufacturers to be responsible for packaging safety, requiring suppliers to provide complete information to an agreed standard would enhance this process.

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?

Nestlé does not consider that there would be any significant gains in better control of CMPF with this proposal. This option is not supported.

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?

See answer to Q6

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?

See answer to Q6

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

Nestlé supports Option 3C as the preferred approach. A Code of Practise would be a direction which would offer a degree of regulatory control, allow standards to be set and facilitate change with flexibility and efficiency. This would represent a system which would meet industry requirements in terms of setting the foundations for information sharing leading to the validation of safety. This would have the most impact with an acceptable cost to business.

Q10 A 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 degree of prescription may not be a negative issue, providing it does not hinder the process of change which is generally noted with regulation changes. Cost to industry would only be the labour involved in managing and implementing changes. Currently Nestlé devotes resources to managing safety and compliance so it would be envisaged that this would be sufficient with such a system.

Q11 Would the above information be appropriate for including in a guideline or can you identify others that should be included?

Yes, as stated earlier (Q5 Answer), legislation to assist food manufacturers to obtain information from the packaging supplier on the packaging ingredients which would then enable the food manufacturer to evaluate the material for safety and compliance.

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.

The most appropriate guideline to address CMPF would be as follows

- EU Regulations and FDA regulations as a base. In general the EU regulations have more rigger than the FDA.
- The Swiss Ordinance for Printing Inks which links into the EuPIA.
- The BFR for paper in contact with food..

Nestlé does not recommend the AS 2070 as this is now outdated and does not have the rigour seen in the EU and FDA standards.

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?

Packaging suppliers including agents need to be more responsible for what they manufacture and or sell. Food manufacturers do not use unsafe packaging materials intentionally, the financial risk is enormous. Packaging manufacturers, particularly agents, often represent suppliers that are Asian based and know little of the EU or FDA requirements and make statements about compliance which cannot be substantiated.

These parties are generally not accountable when packaging proves to be non-compliant. This issue should be addressed more directly as this is the core area of CMPF concerns.

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?

Regulations that impose a responsibility on the packaging supplier or agent, for disclosure of ingredients going into packaging would be a significant help. From this, compliance can be evaluated.

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?

Yes, Nestlé supports the setting of specific limits for DEHP and DINP, and has banned these Phthalates and all other Ortho- Phthalates from packaging. These phthalates are acceptable in very minor quantities only when used as a catalyst for polymerisation in plastic packaging.

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

AFGC

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

Nestlé does not have a view on this

In order to help prepare a future regulatory impact statement (RIS) (if required), please consider the following general questions:

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?

Nestlé would welcome any changes which assists in the Safety and compliance of CMPF. Currently Nestle has an in-depth program which complements all proposals without any foreseeable additional costs.

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

No

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