

Response to

## **P1034 Consultation Paper – Chemical Migration from Packaging into Food**

**Food Standards Australia New Zealand**

Prepared by Dairy Australia

### **Contact**

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# The Australian Dairy Industry

Dairy Australia welcomes the chance to present this submission in response to the P1034 Consultation Paper on Chemical Migration from Packaging into Food.

Dairy Australia is the national services body for dairy farmers and the industry. Its role is to help farmers adapt to a changing operating environment, and achieve a profitable, sustainable dairy industry. As the industry's research and development corporation (RDC), it is the 'investment arm' of the industry, investing in projects that can't be done efficiently by individual farmers or companies.

Australian dairy is a \$13 billion farm, manufacturing and export industry, with an extremely positive future.

Australia's 6400 dairy farmers produce around 9.2 billion litres of milk a year.

The Australian dairy industry directly employs 43,000 Australians on farms and in factories, while more than 100,000 Australians are indirectly employed in related service industries.

Our industry has the potential to grow substantially over the next decade to meet growing domestic and international demand.

Realising this growth potential and expanding the industry's economic, social and environment benefits depends on a positive national and international operating environment.

## Key points

- Food safety regulations must be outcomes-focused, science-based and proportionate to risk. As in other areas all measures considered with regards to chemical migration from packaging to food (including self or co-regulatory measures) need to be consistent with the principles of best practice regulation, including responding to an actual market failure.
- With this in mind, we encourage FSANZ to work within the existing framework to address concerns over chemical migration from packaging to food. Namely:
  - General provisions that make it an offence to sell food packaging or handling materials that are unsafe or will make food unsafe and general requirements for food businesses regarding the safety of food packaging.
  - Mechanisms to regulate specific chemicals of concern that may pose a risk to human health and safety through Standard 1.4.1 - Contaminants and Natural Toxicants.
- We do not consider any additional regulatory response is required. If the P1034 process identifies a need for additional measures, alternative approaches to government regulation should be explored, including developing guidance material (with the Implementation Subcommittee for Food Regulation) and/or voluntary standards.

# Response to relevant questions from Consultation Paper

Dairy Australia does not have specific technical expertise in relation to packaging, and as an industry services body does not manufacture food or packaging materials. We have therefore concentrated our response on regulatory design issues, and have not answered specific packaging questions that are not relevant to our business or expertise.

## Question 1

**What concerns, if any, do you have about food packaging in relation to food safety?**

- Packaging used for milk and dairy products in Australia must be fit for its intended use. Dairy product manufacturers have food safety and quality assurance programs in place to ensure ongoing compliance with these requirements.
- Not only are dairy manufacturers very mindful of the safety of packaging materials they use, but choices in food packaging are also driven by the growing focus on recycling and the need for sustainable packaging.
- With these points in mind, the dairy industry is aware of concerns and confusion about the safety of food packaging that have prompted this proposal. These concerns are worth investigating, but the dairy industry urges this investigation to keep sight of best practice regulatory principles in determining what the issue is, if there has been an actual market failure and appropriate solutions.
- We are also aware that as chemical testing becomes more and more sensitive, it is important not to equate the increased ability to detect very small trace remnants of a chemical with a new food safety issue.

## Question 2

**What measures do you think could be implemented to resolve these concerns?**

- The dairy industry has a history of working with federal and state regulatory agencies to ensure food safety regulations are outcomes-focused, science-based and proportionate to risk. This streamlines the common objectives of both government and industry for safe dairy food production, without added regulatory burden. Furthermore, it allows businesses to innovate and incorporate technology changes while continuing to identify and manage their food safety risks.
- Australia's food regulatory system is built on a philosophy of outcome based standards informed by science, which provide maximum flexibility, but also rely on providing useful information about how to comply.
- We encourage FSANZ to maintain this philosophy in considering measures to resolve concerns over CMPF. As outlined in the Consultation Paper, the desired outcome is already contained in general provisions for packaging that make it an offence to sell food packaging or handling materials that are unsafe or will make food unsafe, and general requirements for food businesses regarding the safety of food packaging. There is also a framework for dealing with compounds of particular concern, through the contaminant maximum levels. We encourage FSANZ to work within this existing framework for packaging regulation, rather than introducing a whole new set of regulations (for example a positive list of allowed packaging materials).
- To achieve the desired outcome there needs to be readily available information about risks and strategies to manage these. More detailed guidance on how to meet these outcomes could be appropriately provided through guidelines from the Implementation Subcommittee for Food Regulation, and/or voluntary standards.

- Packaging is a key area of innovation in the food industry, including for reduced environmental impact and improved food safety and quality (for example shelf stability). An important consideration should be the flexibility to allow for innovative new products and processes without compromising food safety.

#### **Question 5**

**As a peak body/trade association, is there a need for access to further advice on CMPF?**

- Yes. There is a need for more education for both food and packaging manufacturers to determine what is safe and suitable for foods (including for specific types of food), and how this is communicated along the supply chain (for example what assurances food manufacturers should look for from packaging suppliers). This could be appropriately provided through guidelines from the Implementation Subcommittee for Food Regulation.

#### **Question 9**

**If you are a packaging or food manufacturer, or industry body, is using another countries' legislation (eg US/EU) suitable to ensure compliance with your customer's needs?**

- Australia sells almost half its annual milk production directly into export markets as manufactured food products and ingredients. The international regulatory environment and potential impact of regulatory requirements on trade are therefore of great interest.
- In meeting the requirements of international customers regarding packaging, dairy exporters must comply with a range of private standards and government regulations. Some of these refer to EU or US regulations. This does not mean these customer specifications should be adopted as government regulation in Australia.
- The comparison between US/EU approaches to regulating packaging materials and Australia's approach fails to recognise the fundamental differences between food regulatory systems. Across a number of areas these governments have adopted prescriptive approaches that are inconsistent with the outcomes based philosophy of Australia's food regulatory system. While these lists provide useful information about packaging materials, a 'positive list' approach such as this is not encouraged for Australia.

#### **Question 11**

**What would you see as the advantages and disadvantages of a co-regulatory approach to managing CMPF?**

- The dairy industry generally supports self-regulatory and co-regulatory approaches, where appropriate. However, these can also have a regulatory burden (including reporting burdens) and still need to be evidence-based, well-designed, practical, consistent with good regulatory principles and respond to actual market failure.

#### Question 14

**Would you see benefits if a more prescriptive approach to packaging regulations were introduced?**

- No. While a prescriptive approach to packaging regulations would ensure clarity, it would be counter to the outcomes based philosophy of the Australian food regulatory system, and could stifle innovation. It is very difficult for this kind of approach to keep pace with science and innovation, and both maintaining a list and enforcing it creates an additional burden that must be resourced. A more appropriate approach would be to provide guidance for:
  - food manufacturers on what to look for in sourcing packaging that is suitable for its intended food use and will not create contamination issues
  - packaging manufacturers on what is required to assure food manufacturers that packaging is appropriate for the intended food use.