



Submission to  
Food Standards Australia New Zealand  
in response to Proposal P1034 –  
Chemical Migration from Packaging  
into Food

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## About CHOICE

Set up by consumers for consumers, CHOICE is the consumer advocate that provides Australians with information and advice, free from commercial bias. By mobilising Australia's largest and loudest consumer movement, CHOICE fights to hold industry and government accountable and achieve real change on the issues that matter most.

To find out more about CHOICE's campaign work visit [www.choice.com.au/campaigns](http://www.choice.com.au/campaigns) and to support our campaigns, sign up at [www.choice.com.au/campaignsupporter](http://www.choice.com.au/campaignsupporter)

## 1. Question 1 (refer to p.9)

***What concerns, if any, do you have about food packaging in relation to food safety? Please provide details of your concerns.***

CHOICE is concerned that the health and safety of Australian consumers is being compromised by toxic chemicals that can leach into foods from some types of packaging.

For example, our testing has revealed concerning levels of

- a. bisphenol A (BPA) in some canned food products; and
- b. phthalates (specifically DEHP) and epoxidised soy bean oil (ESBO) in foods sealed in glass jars with screw capped lids.

The Food Standards Code has specific provisions for a few chemicals migrating from packaging materials, but there are no limits set for BPA, phthalates or ESBO. CHOICE understands that FSANZ takes a case-by-case approach where levels of chemicals are reported that could have health and safety concerns. It would undertake a risk assessment based on the average consumer's overall exposure to the chemicals.

We are not convinced that this protocol provides adequate protection for Australian consumers. For example, just one serving of 29 of the 38 samples of canned food that we tested for BPA (which included some products specifically for babies or infants) contained more BPA than some experts now believe to be a safe daily level of exposure (0.0024 micrograms per kilogram of body weight per day). Nonetheless, FSANZ continues to maintain that BPA is harmless at current levels of exposure.

## 2. Question 2 (refer to p.9)

***What measures do you think could be implemented to resolve these concerns? Please provide details.***

CHOICE would like to see FSANZ follow the examples of regulators in North America and Europe and be more proactive in protecting consumers.

CHOICE supports strong application of the precautionary principle in the regulation of toxic chemicals in general. Lack of evidence of harm is not evidence of safety. The responsibility should be on manufacturers to prove that food packaging is safe, rather than waiting for more definite scientific evidence that it's unsafe. The regulatory framework should prioritise the protection of human health.

It is instructive to compare Australia with other jurisdictions. Citing BPA as an example, Canada, the European Union and some states of the US have phased-out the use of BPA in some products. And in the US at the federal level, the FDA is taking steps to reduce human exposure to BPA in the food supply. These steps include:

- Supporting the industry's actions to stop producing BPA-containing baby bottles and infant feeding cups for the U.S. market;
- Facilitating the development of alternatives to BPA for the linings of infant formula cans; and
- Supporting efforts to replace BPA or minimise BPA levels in other food can linings.

In Australia, nothing has been done other than introduction of a purely voluntary phase-out by major retailers of polycarbonate plastic baby bottles containing BPA.

### 3. Question 11 (refer to p.17)

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

**Advantages:** In an ideal world, there could be little doubt that co-regulation would provide a more flexible way for industry to achieve compliance with best practice standards. But we do not live in an ideal world.

**Disadvantages:** In reality, the short-term interests of the food industry will not always align with an approach that prioritises consumers' interests. Given the importance of protecting human health, we believe this is an area where clear standards are required, consistent with the precautionary principle.

### 4. Question 12 (refer to p.17)

***Does the Australian Standard for Plastic Materials for Food Contact Use - AS2070-1999 supply useful guidance to industry? Yes.***

***Please expand on your response.***

While useful to industry and consumers alike, the Australian Standard for Plastic Materials for Food Contact Use - AS2070-1999 fails to provide adequate protection of consumer health and safety. Specifically, the Standard does not have the flexibility for prompt regulatory response to new science. Australia has consistently lagged behind comparable jurisdictions in banning or restricting use of chemicals once thought safe but subsequently found to be hazardous.

## 5. Question 14 (refer to p.18)

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

*Please expand on your response.*

As we mentioned in response to Question 11, the short-term interests of the food industry will not always align with an approach that prioritises consumers' interests. Given the importance of protecting human health, we believe this is an area where clear standards are required, consistent with the precautionary principle.