



MAC ADVICE

Roadmap on the Revision of EU Rules on Food Contact Materials (FCMs)

Brussels, 17 February 2021

1. Background

On 18 December 2020, the European Commission published a Roadmap on the Revision of EU Rules on Food Contact Materials (FCMs), which was open to feedback until 29 January 2021¹.

The revision of the FCM legislation is a commitment under the European Green Deal, more specifically the Farm to Fork Strategy, in order to improve food safety and public health (in particular in reducing the use of hazardous chemicals), support the use of innovative and sustainable packaging solutions using environmentally-friendly, re-usable and recyclable materials, and contribute to food waste reduction. The initiative also aims to support the Circular Economy Action Plan and contribute to the ambitions of the Chemicals Strategy for Sustainability.

FCMs include packaging, everyday household items as well as machinery and surfaces used in food manufacturing, preparation, storage, transport and distribution. As such, these are vital to the integrity and safety of the seafood supply chain. Taking into account that chemical substances can migrate from FCMs into food and thus contribute to consumer's exposure to those substances, Regulation (EC) No 1935/2004 sets basic EU rules for all FCMs, which aims to ensure a high level of protection of human health, protect the interests of consumers and ensure that the internal market functions effectively.

¹ Accessible on the European Commission's Better Regulation website: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12497-Revision-of-EU-rules-on-food-contact-materials>.

2. Objectives and Policy Options

The Market Advisory Council (MAC) welcomes the initiative to review the EU rules on FCMs and endorses the stated primary objective of the proposal, ensuring that the regulation policy is based on the most up-to-date scientific evidence and that consumers are fully protected from harmful chemicals. The initiative is an opportunity to fill regulatory gaps, address lack of harmonisation between Member States, and clear up legal uncertainty, which create tensions along the value chain and impact the level playing field in the EU. It is also an opportunity to support the development of sustainable alternatives.

The MAC especially welcomes the focus to take into account the specificity of SMEs, including to guarantee that smaller industry players have the necessary resources to ensure compliance and address multiple rules in Member States, the capacity to understand technical rules, and have better access to substance authorisation assessments. SMEs need guidance and tools to ensure a good understanding of FCMs rules in order to tackle: the lack of resources to keep up with regulatory complexity; the lack of harmonisation in the formalism of the declarations of conformation, which opens the way to non-regulatory requirements by the retail sector, that sometimes go beyond the regulatory framework; and the lack of clear guidance on the testing conditions to be applied for a given use, in particular given the non-publication of the JRC's "Technical Guidelines for Compliance Testing", which offered this perspective.

Taking into account the role of FCMs for the integrity and safety of the seafood supply chain, assuring safe food and consumers' trust in seafood is essential for both operators and other stakeholders. Shared responsibility and transparency amongst the partners of the value chain is essential to achieve this. Proper communication from packaging manufacturers to consumers on how the packaging should be recycled or managed is also essential, in order to improve management of waste, reduce environment impacts, and make better use of it through recycling.

The Commission should assess the existing problems connected to Persistent Organic Pollutants (POPs) resulting from the continuous recycling of some types of materials, which causes an accumulation of POPs. Recycled material that contains POPs means that future packaging contains these contaminants, increasing the risk of effecting the health of the consumer. These can accumulate in the body and cause congenital disorders, reproductive problems, endocrine malfunctioning, and other health problems.

3. Recommendations

In summary, in the context of the Roadmap on the Revision of EU Rules on Food Contact Materials (FCMs), the MAC believes that the European Commission should:

- a) Take into account the use of FCMs by seafood operators as well as the effect on the seafood supply chain of the revision of the EU rules, including through cooperation between DG SANTE and DG MARE on this matter;
- b) In the consultations to be carried out, ensure the engagement of seafood stakeholders, including through the involvement of the MAC;
- c) Develop clear guidance on the application of risk assessment for all substances;
- d) Standardise methods of analysis, in order to avoid the need for multiple testing on the same product in different Member States;
- e) Ensure increased harmonisation amongst Member States, including through the reinforcement of the principle of mutual recognition and the development of harmonised specifications for FCMs;
- f) Take into account the specificity of SMEs, including through the development of guidance and tools, which should ensure a good understanding of FCMs rules and access to substance authorisation assessments;

- g) Promote shared responsibility and transparency amongst the partners of the value chain, in order to ensure the safety of the final product, including by the introduction of clear and consistent rules and responsibilities on information requirements and transfer;
- h) Take measures to improve communication from packaging manufacturers to consumers on management and recycling of packaging;
- i) Consider the potential accumulation of POPs and their associated health risks in the context of packaging recycling;
- j) Ensure policy consistency with the Commission’s recycling objectives, since legislation on plastics contains obligations and incentives for the increased use of recycled material, while stricter rules on FCMs can make it difficult to use recycled material;
- k) Encourage the development of safer and more sustainable alternatives, by considering recycled plastics, new types and innovative packaging materials², so that FCMs can play a full role in a sustainable and circular economy;
- l) In terms of policy options foreseen by the Roadmap, follow “Option 1: Use the current regulatory framework”, since the Regulation (EC) No 1935/2004 provides a strong and appropriate basis to address the identified problems.

² On 11 December 2020, the MAC adopted an advice on plastics and the seafood supply plain, which recommended the promotion and research, in collaboration with the industry and other relevant stakeholders, of increased recycling of seafood packaging, higher recycled content in packages, and the development of biodegradable and compostable alternative materials, while ensuring the same levels of food safety. It is available on the MAC’s website: <https://marketac.eu/en/commissions-reply-plastics-and-seafood-supply-chain/>