



**CHEMTrust**  
Protecting humans and wildlife  
from harmful chemicals

# **EU laws on chemicals in food contact materials: a system in dire need of reform**

**A joint presentation from four EU  
Environment, Health & Consumer NGOs**

**24th September 2018**

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# About CHEM Trust

- A charity working for over 10 years, mainly at EU & Global levels, to protect humans & wildlife from harmful chemicals
- Focus on identification of, and action on, endocrine disrupting chemicals
- Have highlighted problems with FCM regulation for >4 years, including organising a workshop on FCM & REACH
- See:  
[www.chemtrust.org/fcm](http://www.chemtrust.org/fcm)

The screenshot shows the CHEMTrust website with the following layout:

- Header:** CHEMTrust logo and tagline "Protecting humans and wildlife from harmful chemicals".
- Navigation Bar:** Links for About, Our work, Chemical problems, Health impacts, Wildlife impacts, Chemicals policy, and Take Action.
- Main Content Area:**
  - Chemicals in Food Contact Materials**
    - Text: "Food packaging, factory equipment, food utensils – almost everything we eat has been in contact with one or more of these items, which are classified in EU law as 'Food Contact Materials' (FCMs)."
    - Update, May 2016:** "For an up-to-date summary of the problems with chemicals in food contact materials, and the failing EU regulation system, see this new presentation at a Chemical Watch conference: ['EU regulation of chemicals in Food Contact Materials: Outdated, ineffective – and full of holes'](#). Chemical Watch's coverage of the conference, repeats part of our title: ['EU regulation of FCMs: outdated and full of holes'](#)."
    - Text: "Chemicals used in these materials are regulated at EU level by a ['Framework Regulation'](#) which requires that FCMs 'do not transfer their constituents to food in quantities which could endanger human health'."
    - Text: "However, beyond this general safety requirement, some materials like plastics are regulated more precisely by EU rules, others – such as paper"
- Right Sidebar:**
  - POPULAR POSTS**
    - "Hazardous chemicals and plastic packaging: what are the concerns?"
    - "Companies putting public health at risk by replacing one harmful chemical with another, potentially toxic, alternative"
    - "Which chemicals contaminate our food? The EU Bionähring initiative is trying to find out"
    - "Hazardous chemicals in plastic packaging: an initial analysis"
    - "Medicine in the Environment: A Growing Threat to Wildlife and Drinking Water"
    - "EU announces plan to restrict plastic microbeads and biodegradable plastics"
    - "Should the UK stay in the EU Chemicals Agency (Prest-Breit)? Letter from UK Parliament, Cello and Article 50 Taskforce"
  - CHEM TRUST NEWSLETTER**
    - "See our latest newsletter [Click here to subscribe](#)"

# About ClientEarth

- A non-profit environmental law organisation providing legal expertise in the public interest to tackle environmental challenges
- ClientEarth scrutinises decision-making processes, challenges illegal applications of the law, and pushes for transparency in decision making.
- The Chemical Team has been active at EU level for 10 years focusing for example on REACH, as well as on Regulation 1107/2009
- See <https://www.clientearth.org/chemicals/>

# BEUC is proud of its members



# About HEAL

## 75 organisations in 28 countries

- Doctors associations
- Patient groups
- Nurses associations
- Public health institutes
- Research institutes
- Not-for-profit health insurers
- Women's groups
- Youth groups
- Environmental groups



**Focus areas**

- Health & Diseases
- Toxic Chemicals
- Climate & Energy
- Air quality

## Secretariat for the EDC-Free Europe

- Coalition of > 70 health & environmental organisations in Europe
- Supported by 11k individuals
- Raise awareness and urge faster governmental action on EDCs



Promoting environmental policy  
that contributes to good health

## 1. Deficiencies

# A system full of holes

- **The system is incomplete, with many FCM materials not properly covered**
  - 2012 Sanco Roadmap: “*Materials on the market are not safe*”
  - EU FCM regulations do not properly cover materials including paper, ink, coating & adhesives
- **Recycling of paper and card food contact materials is essentially unregulated**
- **An inefficient system, with slow processes:**
  - Repeated assessment of *known* chemicals of concern (e.g. BPA) while neglecting similar substances of concern (e.g. BPS, BPF).

## 1. Deficiencies

# An unreviewed system

- **The Roadmap for this process admits that there has been “*No formal evaluation work or reports*” done on the 2004 legislation**
  - This is in contrast to REACH, for example, which has been reviewed every 5 years (as are many other EU environmental policies)
- **Promoting the lowest common denominator**
  - A few countries have created national regulations for the missing materials
  - But the ‘mutual recognition’ system then undermines the national regulations, enforcing the lowest standards in the EU



## *1. Deficiencies*

### **An outdated system**

- **No promotion of substitution to safer chemicals**
- **No Grouping or mixture assessment**
- **No link to REACH SVHCs and Authorisation**
  - No other cut off criteria, e.g. CMRs
- **No link to REACH Restrictions**
  - e.g. the four phthalates Restriction, which includes mixture additivity

## 2. Case studies

# Recent tests by European consumer organisations

## Fluorinated compounds

5 consumer organisations **find** high levels of fluorinated compounds (PFAS) in one third of tested fast food packaging. Some PFAS are suspected CMRs/EDCs

→ use of fluorinated compounds in paper and board FCM is (essentially) unregulated



## Plastic bottles leach chemicals

A test in Norway **shows** that reusable water bottles leach phthalates, bisphenols, lead and other dangerous chemicals into their content – at levels below current limit values

→ but what about our **total** exposure?

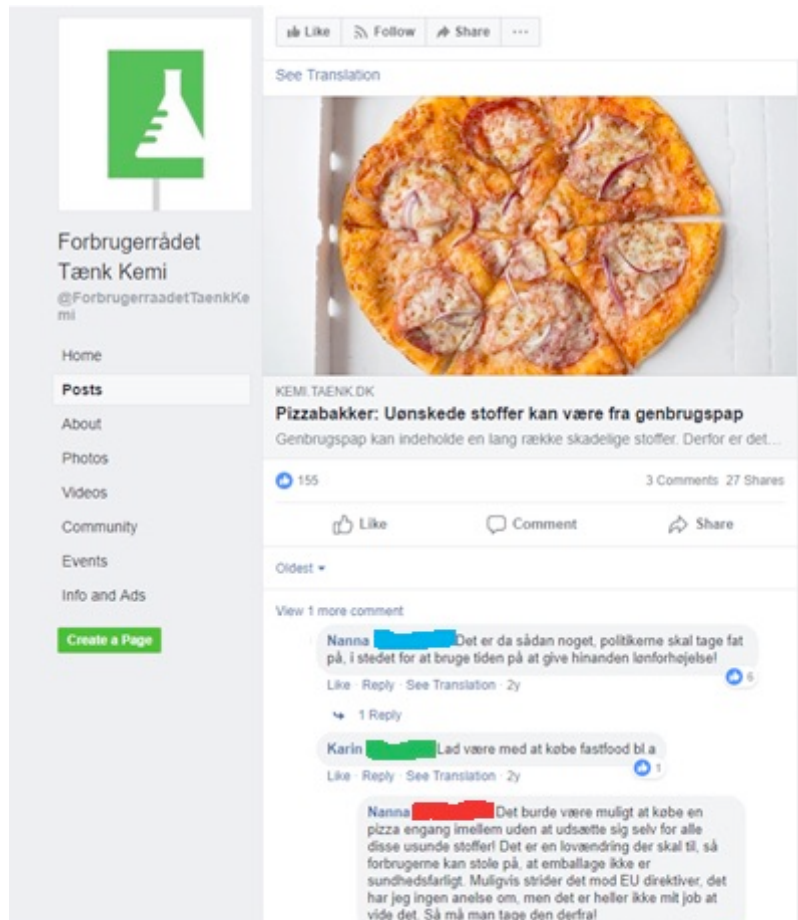
## 2. Case studies

# Consumers are concerned

**More than four in five Europeans (84 percent) report concerns about chemicals in everyday products (up from 43 percent in 2014)**

– Concerns across the EU, incl. Southern and Eastern Europe

**Less than half of EU citizens feel well informed about the potential dangers of chemicals**



**Sources:** Special Eurobarometer 468 'Attitudes of European citizens towards the environment' (2017);  
Special Eurobarometer 465 – Chemical Safety (2017);  
Special Eurobarometer 416 'Attitudes of European citizens towards the environment' (2014)

### *3. A new system*

# **Key requirements for a new system to protect public health**

- **Urgently address in EU law:**
  1. Regulation for all FCM (paper, ink, coating, adhesive, etc...)
  2. Integration with REACH information on chemicals & include action on substances of very high concern, cut off criteria, mixtures and grouping to avoid regrettable substitution
  3. No hormone disruptors (EDCs)
  4. The system must address all FCM materials and finished food contact articles, including non-intentionally added substances
  5. The cocktail effect must be considered in regulation
- **Contribute to creating a clean circular economy**
- **Innovation to safer materials / services**
- **Publish the non toxic environment strategy and the EDCs strategy update**

#### 4. Transparency and participation

## Transparency: refresher

- **Court of Justice of the EU**

“[...] by **increasing the legitimacy** of the Commission’s decision-making process, transparency ensures the **credibility** of that institution’s action in the minds of citizens and concerned organisations and thus specifically contributes to ensuring that that institution acts **in a fully independent manner and exclusively in the general interest.**”

*ClientEarth v. Commission* 4 September 2018 C-57/16, § 104

#### 4. Transparency and participation

## Transparency and REFIT

✓ Identified as “a **basic problem**” in Roadmap

✗ Focus **limited** to EFSA



**Needed:**

☐ **Extend** focus on Commission

#### *4. Transparency and participation*

## Transparency: what to fix?

- Technical “expert group”: extensive list of tasks

- ✗ Industry only

- ✗ No disclosure of activities

~~= Legitimacy, good administration, legality...~~

- Another way exists !

- ✓ REACH

# Conclusions

- **The current system is not fit for purpose**
  - The review must include analysis of options to improve the regulatory system, not just backward-looking analysis
- **A new protective & effective system is needed**
  - Properly aligned with REACH, covering all food contact materials and articles, with transparency and participation

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