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The PC/BPA Group and Epoxy Resins Committee of PlasticsEurope statement in response to the publication on 14 November 2014 of the French Government report relating to potential substitutes to Bisphenol A (BPA) in food contact materials

On 14 November, the French Government report on substitutes to BPA was published in France. It had been requested by French law¹ by July 1, 2014 and has ultimately been published just seven weeks from a proposed restriction of all BPA based food contact applications in France. The report has been based on French industry responses to a questionnaire and compiles input from a number of French regulatory agencies.

Industry is strongly concerned that the report is being interpreted as confirmation that a switch to substances other than BPA would be immediately feasible and comparably easy. This interpretation contradicts to a large extent industry's own assessment. Specifically:

1. Restricting BPA in food contact materials remains scientifically unjustified

Industry continues to strongly object to the unilateral and unjustified move by France to restrict the use of BPA-based food contact materials. This measure contravenes the current EU-wide rules for plastics in food contact materials, and is in conflict with the most recent safety assessment of the European Food Safety Authority (EFSA) and other global regulatory authorities.

These assessments have to-date repeatedly concluded that BPA-based materials can be safely used in food contact applications. Therefore, any report on the substitution of Bisphenol A in food contact materials is, as a point of principle, unjustified and unnecessary.

2. The report misrepresents the "industry position" regarding alternatives

The report states that: "*Representatives of manufacturers of metal packaging indicated to DGCCRF² that tests have been successfully carried out for over 90% of food and that the remaining 10% relate to the most aggressive food*" does not reflect the extensive written input that was submitted to the French authorities. The input provided in March 2014 by the French metal packaging industry (SNFBM) to DGCCRF, in summary, was the following:

- For 90% of all packed food products substitution is under investigation with trials ongoing in different stages, *but* it is not yet confirmed that these trials can be completed with a positive result
- It is already clear that the substitutes under testing do not meet the same quality standards as the BPA equivalent
- For the remaining 10% of food products there is currently no viable substitution foreseeable

¹ As of January 1, 2015, the French Law No. 2012-1442 of 24 December 2012 bans the manufacturing, import, export and placing on the market of any bisphenol-A based material intended for use in food contact packaging, containers and utensils for all food contact applications

² DGCCRF: Direction générale de la concurrence, de la consommation et de la répression des fraudes

Furthermore, the report concludes that *“at the current state of done testing, the results are satisfactory for the vast majority of substitutes used and [industry] generally feel[s] ready for the second term of the law at 1 January 2015 for basically all of their products, even if the professional canners may encounter quality problems for a part of its production.”* This significantly underplays industry comments that describe the challenges faced during trials, qualification and industrial scale-up of proposed alternatives. It also ignores substantial performance shortcomings of alternatives, as described in detail by companies in the comments received for applications such as re-usable water containers.

3. The report lacks a robust scientific and toxicological assessment of proposed alternatives

The report provides no safety assessment or risk analysis for the proposed alternatives other than describing in general terms the regulations in force. No toxicological or safety assessment of monomers, additives nor “Non Intentionally Added Substances” (NIAS) is included in the report.

Consequently, for many of them, the toxicological behaviour of alternatives during long term exposure to food, and, as a consequence, humans, is far less well understood or documented than for BPA. On the other hand over 50 years of research and extensive use provides evidence that products made from materials based on BPA, like polycarbonate and epoxy resin, are safe for their intended uses. Their safety is again supported by most recent assessments of global competent authorities (US FDA 2014, EFSA 2014).

4. The report does not critically validate the information provided by French industry

The report presents the input received from French companies as well as marketing information drawn from the website of these companies without validating this information. If a company does not report any “disadvantages” of potential substitutes, the report presents as a result of the research “no disadvantages mentioned”. However, most of the listed alternatives have significantly inferior performance scores and, at the same time, advantages are stressed, which may not be relevant for use as a food packaging material. Furthermore, substances or materials in a research phase cannot be considered as a viable option for replacing BPA as of January 2015.

Without clear and robust criteria for assessment of alternatives to BPA, the information compiled in the report cannot be used as a sound basis for any company seeking to take an investment decision to replace BPA in the French market.

5. The report’s conclusion fails to represent the content that precedes it

The report’s conclusion provides a selective and misleading picture regarding the availability and potential suitability of alternatives to BPA in food contact applications. In fact, substantial gaps are identified in almost all listed cases, but they find no adequate resonance in the final summary.

From the substitutes known so far it is clear that shelf life of some packaged products will be shortened. This will potentially lead to an increase in food waste, and have impact on the availability of certain products over the year (for example, seasonal products can only be packed at a certain time in year).

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Producers will therefore be forced to change to an inferior performing solution to the one already in use for the French market, while at the same time also continuing to supply non-French customers with compliant, reliable and safe BPA-based food packaging. As indicated by French Parliamentarians in recent questions posed to the French government, for some French companies this means serious challenges, and economic consequences for those producing products largely for export.

PlasticsEurope is strongly concerned about rushed and unjustified substitution in France. Proposed substitutes for the most part are not researched to the same extent as BPA-based products. An unnecessary and artificial substitution in January 2015 would have a severely disruptive impact that provides no health benefit.

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