European Federation of Ceramic Table- and Ornamentalware

21 December 2017

FEPF COMMENTS ON THE EVALUATION OF FOOD CONTACT MATERIALS

The European Federation of Ceramic Table- and Ornamentalware (FEPF) is a member association of Cerame-Unie (The European Ceramic Industry Association). It was founded in 1959 and its secretariat is based in Brussels. Its membership currently covers producers in 9 countries: France, Germany, Italy, United Kingdom, Spain, Portugal, Poland, Romania and Croatia.

All our members, which are national associations and some direct companies, are working on articles/materials intended to come into contact with food (FCM). With regard to FCM, the majority of our members manufacture tableware & kitchenware and bakeware. Some members also manufacture food & beverage packaging ceramics materials. All FEPF members are manufacturers based in the EU and a vast majority of products are made in the EU. The sector employs around 25,000 skilled people with a majority of small and medium sized enterprises.

The European Commission is revising the Directive 84/500/EEC on ceramic articles intended to come into contact with foodstuffs (the "Ceramic Directive") and to reduce the limits for lead and cadmium in the coming months. Future limits have to be scientifically justified and achievable without creating disproportionate burden and costs for the industry. FEPF holds the opinion that the current European plans are too strict and would have a severe negative impact on European Industry.

FEPF wishes to provide comments to the current Evaluation of Food Contact Materials roadmap, specifically on the main relevant criteria. FEPF wishes to highlight the impacts of the current regulation and our expectations with regards to the revision.

TRADE CONCERNS

The original objectives, laid down in framework Regulation 1935/2004, still correspond to real needs. However, on the one hand, our internationally operating members have to respect the judicial requirements incl. food contact legislation of other markets, and on the other hand ceramic tableware and kitchenware imported to the EU are not subject to the same level of manufacturing controls in the EU. We would like to point out that more than 75% of products placed on the market are imported to the EU from third countries.

The current EU FCM rules are still relevant to the original objectives. However, it is not clear to what extent the existing rules have been well enforced at customs and if the same level of enforcement can be met across different member states and on products coming from third countries.

Legal regulation should be implemented and FCM products placed on the EU market should be effectively controlled. Effective traceability and market surveillance should be assured. When a product is non-compliant, it should be made possible to trace it back to the manufacturer and at the same time the product should be removed from the EU market and its re-entry should be prohibited.

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RISK ASSESSMENT

DG SANTE and the EURL – European Reference Laboratory – are currently taking account of the available research on food contact materials. Both DG SANTE and EURL and have been engaged with the industry via conferences e.g. JRC Ceramic Workshops in Ispra or through bilateral information sharing.

However, when work to review the Council Directive 84/500/EEC started (in early 2012) the research conducted by EU policy-makers was at the time relying on internet sources to research the use of materials without consulting with industry. A prior consultation before starting a discussion at EU level on FCM for ceramics, would have allowed for a more accurate information and expertise to feed into discussions.

In the meantime, the industry has compiled a list of available scientific resources, conducted tests and shared this information and testing results with the EU as well as national policy makers. We do not have a clear overview of the expertise exchanges at national level. However, we recommend that EU and national policy-makers take into account the expertise available at company or associations level.

FEPF recognises that limits need to be modified and made stricter. However, new limits must be realistic, possible to achieve and be able to be monitored in a cost-effective way.

New FCM rules at EU and national levels should, in our opinion, take into account available international test methods and technologies in order to avoid any duplication that may result in undue costs. In this regards the adoption of more stringent values currently implemented in California (Proposition 65) could be a good reference for the revision of the new FCM limits in the EU. The current limits under discussion by the EURL and DG SANTE would pose severe aesthetical limitations that would diminish creativity and innovation from an artistic point of view which is what characterises artisanal and artistic production.

There are many problems which should be discussed at length before new limits are imposed. The setting of new limits must be accompanied by a complete impact assessment (environmental, economic and social) taking into account both industrial and artisanal/artistic productions. There are local artistic productions spread throughout the EU that must be considered for their excellence and tradition.

SUBSTANCES

Lead and cadmium are relatively well researched but scientific knowledge still needs to be further developed to ensure it is sufficient for decision making. Additional substances researched by the EURL (as reported at a previous Ceramic Stakeholder meeting in Ispra) are less well researched than lead and cadmium.

It seems that some substances are targeted as a matter of principle without real studies actually proving their harmful effects. Furthermore, the analytical methods do not sufficiently take into account in particular the reduction of the leached metals after several uses. Consequently greater scientific knowledge is required before it can be considered sufficient.

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TRACEABILITY

Although there is a requirement for a declaration of conformity, a rule is not in place to ensure that ware is marked with the brand or the name of the manufacturer. This seriously undermines traceability. As a minimum there should be the requirement to mark ware with a manufacturer's or distributor's name and/or brand so that the consumer can trace items.

One challenge to the implementation of traceability rules is the variance in approach by different countries as the diverse requirements can make it very complex for companies to comply. Moreover it's worth underlining that some imported products are characterised by incorrectly fired decoration and quality standards well below the current performance levels achieved so far by the European companies and legislation.

GOOD MANUFACTURING PRACTICE (GMP)

We understand that some companies in our sector have established GMP and conduct controls regarding food contact and ensure traceability, e.g. raw materials from their suppliers.
In some European countries a process is under way to develop national guidelines of GMP at company level. The current EU and sector-specific GMP rules are sufficient to ensure safety of the articles and materials.

With regard to the fulfilment of GMP and 1935/2004 EU, testing costs can be significant, particularly for smaller companies or companies offering a high number of decoration options. Some companies offer individual decoration options. Although such offer is an essential part of their business model, it results in high compliance costs.

ENFORCEABILITY

There should be a consistent approach to the control of all food contact materials placed on the EU market.

We are aware of the various national judicial requirements for ceramic food contact materials such as lead and cadmium (see LUCIDEON's (formerly CERAM) publication about national judicial requirements for ceramic FCM in different countries). Our members comply with national and international legislations lead and cadmium. However, we are not aware of a list of "authorised" substances.

The "compliance costs" generated by the current EU FCM rules and national FCM rules are generally High to Very high costs mainly due to testing and related equipment. It is impossible to differentiate for each country.

We understand that the compliance practices may differ country by country. In some countries, the very availability of Declaration of Compliance and appropriate documentation is not sufficient and a testing in an accredited laboratory is necessary.

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The cooperation with Member States' competent authorities is generally positive. However, authorities may have different requirements levels and may execute more control than guidance.

IMPLEMENTATION CHALLENGES

Firstly, there is not a consistent approach across the EU. Some Member States implement the current EU FCM rules to the full extent, whereas others only partially implement / do not implement. In other countries, the check and controls may go beyond the current legislation in force.

Regular checks carried out in European companies seem to be rather effective but the absence or lack of controls on products from third countries does not consider that security is ensured for consumers. The lack of a 'watchdog' limits the benefits EU FCM directive could deliver.

In order to guarantee a sustainable compliance with the current FCM rules, new structures had to be built up. This created high costs. The future challenge will be to find a reasonable way for all stakeholders (consumers and companies) on national, as well as on international, level.

In conclusion:

- FEPF recognizes that limits need to be modified and made stricter. However, new limits must be realistic, possible to achieve and be able to be monitored in a cost-effective way.
- The setting of new limits must be accompanied by a complete impact assessment (environmental, economic and social) taking into account both industrial and artisanal/artistic productions. There are local artistic production spread throughout the EU that must be considered for their excellence and tradition.
- The delay in involving relevant industry representatives in the review from an early stage could have had a significant negative impact on the sector across Europe. Any future work must involve the relevant experts at the outset.
- The review of the Directive commenced with a sense of urgency and then stalled, but regained speed in late 2017. However, the completion will most likely take place in 2020 at the earliest. This has created costs and uncertainty for businesses.
- The delay in completing the review of the Directive has led to some Member States to start implementing new rules and regulations in anticipation. This is creating complexity and uncertainty for businesses.
- Even before the Directive was reviewed, it was not being consistently implemented throughout Europe. More should be done to ensure uniform enactment.
- It is important to ensure surveillance of the existing and any future revision requirements. The requirements should be clear, realistic and burden of compliance should not only be on European companies (which tend to be controlled more often) but equally on all producers placing FCM on the EU market.

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