



OPEN LETTER

To the European Commission:

Dr **Stella Kyriakides**, European Commissioner for Health and Food Safety, European Commission. Via email: cab-kyriakides-contact@ec.europa.eu

Brussels, 21 February 2022

Subject: Hazardous Chemicals and Food safety – recycled plastic in food packaging (updated rules)

Dear Commissioner Kyriakides,

The undersigned organisations are deeply worried about some of the proposals in the draft new Regulation concerning the placing on the market of plastic materials and articles with recycled/secondary plastic content intended for use in contact with food.¹ The draft Regulation would repeal previous legislation on recycled plastics in food packaging, with Commission adoption planned for first quarter 2022.

As a matter of priority, the Food Contact Material (FCM) Framework Regulation (EU 1935/2004) needs a comprehensive revision to ensure the elimination of hazardous chemicals, which the EU Commission is presently undertaking. We are concerned that content of this draft Regulation may later contradict provisions of the overarching FCM Framework to be completed in the coming years. Therefore, a proposal on recycled/secondary plastic content in such materials/articles is untimely and should be introduced only once the issues for virgin materials have been properly addressed.

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<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12013-Food-safety-recycled-plastic-in-food-packaging-updated-rules-en>

According to the EU waste hierarchy, prevention and reuse must be prioritised to achieve a circular economy; yet, we recognise that **safe and efficient** plastics recycling will likely have a role to play. However, a large body of evidence shows that while virgin plastics contain known hazardous chemicals and untested chemicals which can be hazardous, **recycled plastics contain (almost always) higher levels of hazardous substances**² that can harm human health due to their migration from the food contact materials (FCMs) to the food. This calls for caution and a strong regulatory framework to prevent toxic-recycling which will anticipate future regulatory changes (such as that of Bisphenol A, for which the EFSA recently proposed a drastically reduced Tolerable Daily Intake limit).

At present, however, the proposed draft regulation fails to protect consumer safety at the highest levels. Moreover, we see no evidence in the draft of the application of the Precautionary Principle, which is a fundamental safeguard when regulating chemicals and ensuring food safety. As it is now written, the draft proposal allows for **novel technologies for plastic recycling to operate at scale and market any recycled plastics for FCM use in the EU prior to any assessment of their efficiency for removing hazardous chemicals**. This is all the more important since a recent report for ECHA concluded that "there is little knowledge about the abilities of different chemical recycling processes to eliminate substances of concern"³.

The proposal is not in line with the Chemicals Strategy for Sustainability (CSS), which clearly sets out the need for material cycles free from hazardous chemicals. The current draft focuses on methods of decontamination rather than the safety of the final product in terms of contaminants and chemical migration thresholds, which does not adequately integrate the aims of the CSS to protect consumer and environmental health. This focus is additionally at odds with the Commission's Roadmap on the revision of the FCM Framework legislation.

Since the intended focus of the proposed regulation is the safety of recycled plastics for FCMs, strictly regulating the safety and quality of the final recycled article /product must be priority rather than the exact steps of the process. The new regulation should therefore explicitly provide for the permitting of the novel plastic recycling technologies to develop supporting data under a pilot- or demonstration-scale, rather than operating at full commercial scale.

Our other key points of concern are:

- Issues on implementation and enforcement - the draft is lacking a strong mechanism of enforcement, including (among others) specific rules for appropriate controls of the recycling and decontamination processes. Considering that controls and enforcement of rules on FCMs are currently lacking due to the outdated regulatory framework as well as the lack of resources, accredited methods, and specialised knowledge in Member States to enforce the current regulations of FCMs, we are concerned that the draft proposal will reverse the progress currently being made on protecting consumer health from chemical migration due to FCMs.
- Lack of specificity in methods and efficiency of different plastic materials - the draft does not differentiate between the types of plastic, such as PET monomaterial where plastic recycling works reasonably well, as compared to other types for which the recycling process is much more challenging and more difficult to remove contaminants. We bring attention to this issue to show the insufficiency of the draft; and solely addressing the lack of specificity does not eliminate our other concerns: even with plastics like PET monomaterial that recycle more easily, levels of hazardous chemicals such as BisphenolA increase in the recycled end product.

For all these reasons, we **call on the Commission to, first of all, urgently proceed with the revision of the Food Contact Materials Regulation Framework for all materials to**

² Geueke et al. 2018 [Food packaging in the circular economy: Overview of chemical safety aspects for commonly used materials](#). Journal of Cleaner Production.

³ <https://echa.europa.eu/-/reach-requirements-need-to-be-considered-in-chemical-recycling>

be safe and not just those with recycled plastics content. An overall update to the Framework is needed before the Commission integrates a specific proposal such as this draft proposal. Any initiative on recycled materials should follow only after the FCM framework revision is achieved and it will be ensured that all risks and impacts are understood, and the proposed measures are appropriate to guarantee consumer safety of food contact materials and cause less environmental burden. Further, the new regulation should allow any novel plastic recycling technology to operate on the market scale only on the basis of supporting data obtained on a pilot / demonstration scale and a detailed evaluation of this data.

We thank you for your consideration of this important matter and would be happy to meet with you to discuss this at your earliest convenience and remain at your disposal for any questions you may have.

Zero Waste Europe (ZWE)

ANEC (the European consumer voice in standardisation)

Arnika - Toxics and Waste Programme

Armenian Women for Health and Healthy Environment (AWHHE)

Center for International Environmental Law (CIEL)

ChemSec (the International Chemical Secretariat)

ChemTRUST

Deutsche Umwelthilfe e.V.

ECOS (Environmental Coalition on Standards)

Ecologistas en Acción

European Environmental Bureau (EEB)

Fodesam

Gallifrey Foundation

Green Transition Denmark

Health and Environment Justice Support (HEJSupport)

Healthcare Without Harm (HCWH) Europe

Hogar sin Tóxicos

Humusz

No Plastic in My Sea

Plastic Change

Plastic Soup Foundation

Plastics Rebellion

Rethink Plastic Alliance (RPa)

Tegengif

VšĮ "Žiedinė ekonomika"

Ways out of the Plastic Crisis

Women Engage for a Common Future - WECF International

ZERO – Association for the Sustainability of the Earth System

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