

Bld. Brand Whitlock 114 / B-1200 Brussels
T: +32 2 738 78 10

Naomi Marc

naomi.marc@applia-europe.eu



APPLiA contribution to draft Order on substances contained in mineral oils on packaging and printed matter (France)

Summary

APPLiA would like to provide a reaction to the notified draft Order specifying the substances contained in mineral oils prohibited for use on packaging and printed matter distributed to the public, with the end of the standstill period scheduled for 7 April 2022. This draft Order contains stringent restrictions on certain mineral oils in printing ink on packaging and printed material destined for the public, covering the French market, with a foreseen entry into force on 1 January 2023.

As APPLiA represents European manufacturers putting on the market home appliances across the EU, we would like to highlight concerns shared with several European and National associations representing the EEE sector such as FIEEC, on the impacts that such a national provision could have on the Single Market and EU industries' competitiveness.

1. Scope of the draft Order

First, APPLiA would like to raise the attention of the competent authorities on the unclear scope covered by the draft Order. Indeed, there are uncertainties on whether all types of packaging (e.g. plastic, recycled paper packaging, etc.) are targeted by the requirement, and what are the exact intended uses covered by the draft Order (e.g. food contact materials, others)? A clear and detailed scope is a prerequisite to avoid any confusion and legal unclarity.

2. Free movement of goods

The EU Single Market shall be preserved and national diverging legislations would hinder the free movement of goods, here packaging and packaged goods, across the European Union, with the risk to create unjustified market distortions against European producers. We would like to recall the Packaging and Packaging Waste Directive (Directive 94/62/EC) which provides requirements on packaging at the EU level and will be further revised. The revision would include new requirements for including recycled



content in packaging, by consequence, we will encourage the French authorities to take into consideration that revision and align with it by implementing Article 112 of the French Circular Economy and Anti-Waste law within the Directive's revision. Moreover, we would like to highlight the importance of taking into consideration European existing chemicals' legislations, most importantly the REACH Regulation, which establishes provisions under Article 67 on restrictions of substances in materials and articles.

With these restrictions on MOSH and MOAH, France will be the only country imposing such a requirement today, representing an additional obstacle to the free movement of goods. By consequence, we question the proportionality of such an isolated measure that would not be beneficial for the EU market as a whole.

Furthermore, as stated in article 34 of the Treaty on the Functioning of the European Union, "quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States", the scope of which has been clarified by the Court of Justice of the European Communities. Therefore, we call on the legislators to ensure the proportionality of such a measure in view of ensuring the good functioning of the EU Single Market.

3. Alignment with European classification of hazardous substances

We would like to highlight that 3-7 ring MOAH compounds are already subject to restriction for certain product categories under the REACH Regulation. The French draft Order restricts 1-7 MOAH compounds. As such, we would strongly recommend that the French authorities align the draft Order with ECHA classification system to identify prohibited substances on the basis of their carcinogenic properties after a scientific-sound assessment. This should ensure the effectiveness of the measure and guarantee a common understanding for the economic operators at the EU level.

Regarding restrictions on MOSH, we share the concerns of FIEEC expressing a lack of proportionality of the measure due to the fact that these substances are not classified for their carcinogenic properties under the REACH Regulation. We would therefore kindly ask the French authorities to further assess the need for a ban of such substances based on scientific evidence.

In terms of feasibility to implement such restrictions with the suggested concentration threshold, we would invite the French authorities to fully consider the JRC Technical reports on the feasibility to test MOAH at a level of 1ppb, and to further align with existing provisions at national level. Specifically, from 2023, the level of MOAH must be lower than 0.1% and MOSH must be lower than 1%. From 2025, the level of MOAH must be lower than one part per billion and for MOSH, lower than 0.1%: these levels are too low to be detected via tests.

4. Implementation of the Order

The entry into force date must allow sufficient time for economic operators to comply with the requirements. The draft Order foresees a consequent amount of time needed for manufacturers to adapt their production and design processes, such as changing the inks or the printers and printing systems, in



addition to properly assessing the possible alternatives and exchanging with their suppliers, to name a few.

For that reason, we would support the recommendation for having a transition period of 18 months for products placed on the European market from 1 January 2023, and appropriate provisions to allow the sale of existing stocks for at least 18 months, in order to minimise destroying packagings.

APPLiA - Home Appliance Europe represents home appliance manufacturers from across Europe. By promoting innovative, sustainable policies and solutions for EU homes, APPLiA has helped build the sector into an economic powerhouse, with an annual turnover of EUR 53 billion, investing over EUR 1.6 billion in R&D activities and creating nearly 1 million jobs.

