

Brussels, 06 April 2022

The French authorities have recently notified the Order specifying the substances contained in mineral oils prohibited for use on packaging and for printed matter distributed to the public.

FoodDrinkEurope and its members take the possible presence of mineral oils (MOH) in food and its packaging very seriously and work closely together with all stakeholders in the supply chain, related branch organisations and authorities to follow up on this topic as much as possible. We are also expecting an updated EFSA risk assessment on MOH by end of 2022, based on new toxicity studies on MOH and recent occurrence data. Thus, we would like to raise some comments on this notification since we are concerned that the order draft might hamper the functioning of the European Single Market:

– **Many practical aspects are still unclear.**

The draft order is unclear about material and packaging concerned. A clear distinction should be made between authorized and regulated mineral oil saturated hydrocarbons (MOSH) like wax or paraffin (Regulation (EU) 10/2011) and others.

– **Distortion of European Single market**

This measure is notified in addition to the current economic constraints in force in France concerning mineral oils for the paper and cardboard sector in terms of circular economy. It represents to food business operators (FBOs) a new non-harmonized specific rule to comply with that potentially could be a barrier to competition and disrupt the European single market.

We stress the fact that the evaluation of the Food Contact Material Framework regulation 1935/2004 is still ongoing¹. The French measure will thus run contrary to the Commission's ambition to harmonise the rules for food contact materials in the context of the ongoing evaluation.

The French Order may severely weaken and distort the European Single Market for food packaging manufacturers too and disincentivise investment. FBOs may face differing standards for producing and importing their products in France compared to the rest of the EU at a time when strengthening of the Internal Market is a core priority.

– **Verification of conformity**

Analysis on finished product will not provide information about ink conformity to this order. Written attestation from ink suppliers should be the basis of controls. If analytical checks on finished products for the verification are confirmed, it should be done on the ink and not on the finished packaging or printed paper. Otherwise:

- it could encourage manufacturers to use virgin cardboard instead of recycled cardboard, to ensure that there is no contamination trace of mineral oils from recycled materials. This runs counter to the circular economy objectives.
- It will also lead to adhesive and glue selection to avoid MOSH content, even authorized ones which is not in line with the Order demand and will disturb the market.

¹ Ecorys study supporting the Evaluation of Food Contact Materials (FCM) legislation - (Regulation (EC) No 1935/2004); <https://op.europa.eu/en/publication-detail/-/publication/3ae0294b-bc0c-11ea-811c-01aa75ed71a1/language-en>

Reliable data is crucial to detect contaminations, identify sources, and apply measures throughout the supply chain. In this regard, despite the progress made, several analytical challenges remain in the area of MOH.

– **Analytics**

We think it is still premature to introduce such ordinance given the long path still to go in terms of regulation and standardisation of analytical methods for MOAH and MOSH. The order does not take in account the current level of knowledge and good manufacturing practices regarding MOH. The food and drink industry has developed effective guidelines² for the treatment of all potential routes of entry into food, raw materials, packaging materials and components at all relevant stages of the value-added chain, which have led to proven success in minimisation. Industry practice has shown that the complex routes of entry for MOAH all over production chains call for many differentiated solutions and not for isolated measures relating only to packaging and for printed matter distributed to the public.

- **Concentration threshold:** From 2025, the level of MOAH must be lower than one part per billion. This level is analytically not possible to measure to date. This means that operators will not be able to confirm compliance to this decree regarding analytical difficulties and cross contamination.

Moreover, at EU level there is ongoing work on analytical methodologies by the Joint Research Center. Increased harmonisation of the analytical steps in the procedure for MOH analysis is needed to improve the comparability and reproducibility of laboratory results in the future.

– **Transitional measures**

A sufficient transitional period is needed to provide adequate time to adapt the composition of printing inks used to these new requirements (18 months) and for the disposal of stocks (additional 18 months) to avoid destruction of unsold products.

In light of all the above, we firmly believe that there still a lot of preliminary and ongoing work to be accomplished on MOH before arriving to the proposed French order draft. This unfortunately does not bring added value in consumer health protection and could constitute an obstacle for sustainable packaging and the circular economy. Thus, we call for a harmonised approach at European level.

We thank you in advance for considering our comments and are at your disposal for further discussion.

² FoodDrinkEurope “Toolbox for preventing the transfer of undesired mineral oil hydrocarbons into food”;
<https://www.fooddrinkeurope.eu/publication/preventing-transfer-of-undesired-mineral-oil-hydrocarbons-into-food/>