

The Materials and Articles in Contact with Food (England) Regulations 2012

Food Standards Agency

RPC rating: fit for purpose

Description of proposal

The policy under review relates to the domestic implementation of a number of EU Directives to revoke, remake and consolidate all implementing and enforcement provisions on food contact materials. Food contact materials (FCM) are a broad range of materials used in packaging or production of foodstuff. This includes plastics used for bottles, films and containers and also the metal, plastic, wood and rubber in the equipment that prepares or processes the food. The objectives for The Materials and Articles in Contact with Food (England) Regulations 2012 were:

- To protect consumer health from consumption of food containing harmful levels of chemicals migrating from materials and articles with which the food has intentionally been placed in contact;
- To provide for the execution and enforcement of Commission Regulation (EU) No. 10/2011 (The Plastic Regulation) which updates and replaces previous EU legislation in this area; and,
- To revoke, remake and consolidate existing enforcement and implementation provisions on materials and articles intended to come into contact with food into one set of Regulations, thus making it more convenient for businesses and others that have to refer to the Regulations.

Impacts of proposal

The regulator states (based on responses from relevant trade associations and public health authorities) that the policy has had no unintended impact on businesses. It also assesses each of the costs considered in the original impact assessment (IA) for this measure, concluding that:

- The estimated and actual costs of familiarisation were not materially different (based on consultation responses);
- The estimated and actual simplification benefits were slightly different. The actual benefits being around 12% lower to date as a result of lower numbers of new entrants to the market than the regulator had expected (based on administrative data);

- The regulator had expected (but not quantified) benefits to businesses as a result of a more proportionate, risk-based approach to sampling and testing. In practice, and based largely on its contacts with businesses, the regulator believes that many of these risk-based approaches were in use at the time when the regulations came into force, but that the existence of the regulations has drawn attention to some useful risk-assessment tools. Thus it argues overall that there has been some unquantified benefit. It should be noted, however, that some stakeholders raised concerns about the high cost of analytical testing for small businesses.

The PIR also examines each objective of the regulations and assesses whether these have been met. The FSA concludes on the basis of its consultation with stakeholders that:

- The regulations have created an appropriate framework for the enforcement of the EU's Plastic Regulation and as a result they help to keep consumers safe from exposure to chemicals that could migrate into food. In particular they have allowed for the adoption of specific measures allowing for the management of new food contact materials such as some plastics and intelligent materials and have supported local authorities in addressing risks as a result of the import of plastic kitchenware. Thus they have contributed to the proportionate protection of consumer health;
- Businesses would like to see more rigorous enforcement of the Plastic Regulation, especially in respect of imported goods; local authorities are feeling resource pressures that limit their ability to provide more rigorous enforcement;
- The consolidated guidance documents produced as part of the change have helped to provide a framework that defines what is required for compliance and have also provided clear advice for different groups of stakeholders. This also helps to keep consumers safe;
- The stakeholders contacted about the consolidation of regulations of FCM agreed that they benefited from only having one document to refer to;
- Non-regulatory measures would not be as effective as the current legislation and could have an impact on consumer safety.

Quality of submission

Though the PIR only covers the effects of the regulations in England, it also looks at the enforcement of the legislation in other member EU states. The FSA contacted a range of member states and three out of four said they enforced the regulations at a local level, whilst two out of four went beyond the regulations and also regulated paper, rubber, metal, glass, textiles, wood & cork, coatings, pigments & colourants. The FSA gives a thorough examination of whether the three objectives of the

regulations have been met. The FSA sought stakeholders' views in 2014 on whether the measures went far enough to keep consumers safe. They state that there was general consensus that further regulation on paper, board, coatings, inks and adhesives could be useful. The FSA recommends that the regulations are retained as there is evidence that they continue to meet their objectives of protecting consumer health and providing for the execution and enforcement of the EU Regulations on FCM.

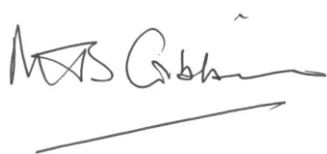
The FSA explains that a light touch review was undertaken and they performed a small scale survey of affected stakeholders. This appears to be a proportionate approach. The evidence provided by the regulator supports the estimates of the actual impact, where feedback from stakeholders has demonstrated the continued meeting of the objectives of the regulation.

The FSA should have improved their PIR by providing more detail on consumers' perceptions of the regulations. They mentioned that they have a biannual public attitudes tracker but did not provide details on the types of questions asked about this regulation in particular.

Departmental recommendation	Renew
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RPC assessment

Is the evidence in the PIR sufficiently robust to support the departmental recommendation?	Yes
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Michael Gibbons CBE, Chairman