The European Glass Sector Contribution to the Revision of the Ceramics Directive (84/500/EC)

Position paper

June 2021

The European Commission is currently reviewing the existing regulatory framework on food contact materials (FCM), in particular Directive 84/500/EC relating to ceramic articles intended to come into contact with foodstuffs (Ceramic Directive). **The European Commission intends to enlarge the scope of a revised Ceramic Directive to glass products and to establish appropriate protective migration limits for lead, cadmium, barium, nickel, aluminium and chromium**.

Glass Alliance Europe understands that this extension is rooted in the European authorities' desire to put in place the most stringent regulatory framework applying to ceramics and glass articles with a view to eliminating any potential health risk.[1]

If the revision of the Ceramic Directive offers an opportunity to set up a regulatory framework for glass products, the specificities of the glass material and its products ought to be taken into account. **For instance, there are a large number of glass products which have various food contact applications and exposure patterns**.

Within this framework, Glass Alliance Europe would like to raise co-legislators' attention to several aspects:

1. **Glass Alliance Europe supports a harmonised European food contact legislation for glass with a co-decision legislative process**
2. **Pragmatic approach should be enhanced**
3. **Limit values should be associated to adequate testing requirements**
4. **Permanent labelling should be avoided as it would stigmatize the product**

[1] It has to be noted that due to overall reduction of exposure, diet exposure seems proportionally more important now than previously. This however does not mean that exposure through diet or via the FCM has increased.

1. Support for a harmonised food contact legislation for glass with a co-decision legislative process.

Some EU Member States have already developed or intend to develop specific legislation requirements covering the use of glass as a food contact material. In the absence of an EU-harmonized legislation for glass, **a regulatory patchwork across Europe hinders the free movement of goods in the EU and increases the regulatory costs** for glass producers active in several countries.
This is particularly the case in the food and beverage sector, where fillers or importers of food and drink products ask the container glass producer to declare that the glass containers they use meet the general requirements (Article 3) of Regulation 1935/2004 on materials and articles intended to come into contact with food. In the absence of clearly defined EU legislation for glass, this sector might request glass producers to conduct multiple tests to meet the various national requirements across Member States. In other instances, **glass articles are being tested according to protocols developed for other types of food contact materials** (e.g. plastics), even though these test protocols are not appropriate for glass products.

Enlarging the scope of the Ceramic Directive to glass, adapting the existing migration limit values and adding other metals is a major change to the legislation. Therefore, a co-decision legislative process would be more appropriate than an implementing act.

Glass Alliance Europe supports the development of a harmonised European food contact legislation for glass products. Since the modification of the scope of the Ceramic Directive in order to encompass glass products is an essential modification, a co-decision legislative process is more appropriate than an implementing act.

2. Pragmatic approach should be enhanced

Glass Alliance Europe wishes to underline that in most cases the migration levels from glass articles are so low that they do not endanger human health see e.g. the French Glass Federation analysis for different glass articles[2]. This is particularly the case for soda-lime silicate glass, which is the type of glass commonly used to produce flat glass, see Glass for Europe study showing insignificant releases of metals from flat glass products[3].

Contrary to ceramics articles, glass articles are produced by shaping a **homogeneous** molten material. If one glass article complies with migration limit values, articles produced on the basis of the same composition specification in the same process, taking into account the surface volume ratio, will also comply. Moreover, as glass is essentially inert, most of the glass articles would be compliant with the new limit values, in particular in the case of industrial production (which is the case for most of the glass articles). Requesting systematic testing for all kinds of articles seems therefore unnecessary. Testing should be based on a pragmatic approach in order to ensure that the legislation does not consider compulsory systematic testing

[2] Available on request: info@fedeverre.fr
[3] Available here: https://glassforeurope.com/insignificant-releases-of-metals-from-flat-glass-products/

Glass Alliance Europe also considers that clarification is needed on how imports could be controlled by Member States on a pragmatic basis in order to ensure a fair level playing field. In particular in relation to chromium VI, importers should be subject to the same level of control as EU manufacturers when putting articles on the EU market.

- **Glass Alliance Europe considers that compliance could be demonstrated by a single set of analyses, remaining valid as long as the raw material batch and the production process remain unchanged**.

- **Glass Alliance Europe calls for mainstream soda-lime flat glass intended to be in contact with food to be exempted from systematic testing obligations, due to the demonstrated absence of health hazard and the disproportionate nature of such testing for 10 million tonnes of glass intended to be used as glazing in buildings and cars.**

- **Pragmatic approach for industry and for control by competent authorities should be enhanced.**
  Mitigation measures such as permanent labelling for customers should be made compatible with the marketing of luxury articles, which represent a significant share of sales for some producers. Disappearance of this market would jeopardize the viability of the EU lead Crystal manufacturing sector.

- **In particular, regarding Chromium VI, the proposed measures should be more operational.**
  As demonstration regarding the process could be difficult to verify, we propose to adopt the same approach as in Plastics Regulation 1245/2020 whereby *the detection limit of 0,01mg/kg shall apply for total chromium. However, if the operator that placed the material on the market can prove on the basis of pre-existing documentary evidence that the presence of hexavalent chromium in the material is excluded because it is not used or formed during the entire production process, a limit for the total chromium of 3,6 mg/kg food shall apply*.

3. Limit values should be associated with testing requirements

For Glass Alliance Europe it is important that the testing requirements to be applied to glass reflect the different applications and use-scenarios in contact with food. Therefore, testing requirements must take into account conditions of use of the different glass products.
Glass Alliance Europe would like to stress also that any limit values should be associated with a testing method. Any impact assessment should consider not only the limit values but also the associated testing method and the adequacy of this method and the conditions of use.

Glass Alliance Europe calls for adapting testing methods to glass products in order to reflect 'real-life' use scenarios and

- **linking limit values to testing requirements.**

4. A repositionable labelling is preferable to a permanent labelling

With regard to labelling on a consumer product, this option has been discussed and discarded in by the Commission, further to the assessment reproduced hereunder.

> *(…) research on the way consumers would perceive warnings and other type of information provided is necessary before introducing them. Such research should be done across consumers from all social, economic and cultural groups, in order to test if the level of perception is similar and to judge the usefulness of such warnings or labelling. In the meantime, children would continue to be exposed to a high amount of lead exerting toxicity and resulting in diseases.*
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> *It is noteworthy that consumers are not fully aware about the presence of lead in consumers' products and the related health consequences. Therefore, labelling or warning on toys only could be misleading and disproportionate for the consumer, as the main exposure to lead comes from food and air, where such labelling is currently neither provided nor foreseen.*
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> *Parents buying toys would believe that the presence of lead and its health consequences is an issue specifically related to toys, while this is a general problem concerning all exposure sources (food and non-food sources). Additionally, such warnings, if present, would be reaching the appropriate target to be protected – children – only indirectly, as they would be addressed at parents, not at children. Parents are the ones generally concerned by warnings, as they are the ones to buy toys. However, there is no information currently showing how such labelling would reach parents or care takers, as depicted above. Additionally, in relation to lead exposure, one cannot fully rely on labelling and warnings recommending adult supervision. Adult supervision even if fully applied, cannot fully prevent lead exposure. Thus, this* ***option*** *has been* ***discarded*** *and will not be assessed further.*[4]

Should the Commission insist in imposing a label, then, rather than a permanent labelling which would damage the high value product, Industry proposes a removable and repositionable labelling on the product, and a label on the accompanying leaflet.

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[4] Commission Staff Working Document – Impact Assessment accompanying the document Council Directive amending, for the purpose of adapting to technical progress, Annex II to Directive 2009/48/EEC of the European Parliament and of the Council on the safety of toys, as regards lead, SWD-2016-290-F1-EN-MA of 9 September 2016, pp. 31-32
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