

Warsaw, 14th of September 2023
KL/346/166/KO/2023

Mr Bruno Gautrais

Head of Unit
Food processing technologies and novel foods
Directorate-General for Health and Food Safety

Dear Mr Gautrais,

In relation to the planned ban on the use of Bisphenol (BPA) in food contact materials, I would like to kindly provide the position of the Polish Confederation Lewiatan on this issue.

While acknowledging the arguments in favour of the legitimacy of introducing a regulation to restrict the use of BPA, we would like to emphasise that related actions should take into account the existing context and economic realities, as well as the legitimate interests of those operating in the food sector. In this context, the following points in particular are crucial.

1) Maintaining the possibility of using and continuing to market production equipment purchased before the date of entry into force of the new regulations

Currently, production facilities are equipped with machinery parks, often built over many years, at considerable expense. The machinery used in the production process was purchased in compliance with the regulations in force and meets quality standards. A ban in its current form could mean that at least some of the plastics components currently in use would have to be disposed of, incurring significant costs that would not be compensated in any way for the producers.

In this respect, there are also concerns about the availability of spare parts in the future. The transition period should be long enough for equipment suppliers to prepare suitable replacements. It should be noted that production equipment is not subject to rotation like, for example, food packaging, so the adopted vacatio legis is insufficient in this regard.

It should also be taken into account that, in the case of production equipment, contact with food is generally very short, so that the risk of BPA migration into food is much lower than in the case of packaging, in which the product may be stored for many months.

Attention should also be paid to the issue of the resale of currently used equipment - manufacturers should be able to legally sell their currently used equipment to third parties, even after the new regulations come into force.

We call for maintaining the possibility of using production equipment (including spare parts) purchased before the date of entry into force of the new regulations and to continue marketing them

2) Establishing an appropriate transition period

The production of foodstuffs is a complex and multi-stage process, planned months in advance. From the perspective of the food manufacturer, many aspects need to be coordinated, such as the supply of raw materials, packaging, the number and scope of orders, production capacity, contractual deadlines, etc. On the other hand, the transition period currently envisaged may not be sufficient for a smooth and uninterrupted transition to materials and products that meet the requirements of the new regulations, which, in our opinion, applies particularly to packaging.

It must be taken into account that packaging orders made in advance are also fulfilled by their producers, but these producers must also be supplied by suppliers of raw materials, who may also have further suppliers, etc. The entire process from the order for packaging to the use of the packaging must be taken into account. The whole process from ordering the packaging to its use is therefore significantly stretched over time. In addition, packaging is ordered in larger batches and manufacturers often have to maintain significant packaging stocks.

The new regulations will result in far-reaching changes throughout the supply chain and the need for individual industry operators to switch to new materials. Given the huge scale of the food industry, these regulations will have far-reaching economic effects. In view of this, the planned 18-month *vacatio legis* is not sufficient to bring the entire food industry into line with the new requirements and, for our part, we advocate an extension of this period, taking into account existing conditions.

3) The alcohol industry may be particularly affected by changes in the use of Bisphenol

The presence of Bisphenol affects the coatings of a significant proportion of the tanks used in the alcohol industry, which due to the long production cycle (many months or even years), must have relatively large tank capacities compared to the production volume. The useful life of tanks in this industry is often more than 30 years, over which period the tank stock is built up, so their replacement should be gradual. Given the significant proportion

member of



member of



Konfederacja Lewiatan
ul. Zbyszka Cybulskiego 3
00-727 Warszawa

tel. +48 22 55 99 900
lewiatan@lewiatan.org
www.lewiatan.org.

NIP 5262353400
KRS 0000053779
Sąd Rejonowy dla
m. st. Warszawy w Warszawie XIII
Wydział Gospodarczy



LEWIATAN

of such tanks, replacing them in the short term could be an excessive burden and would undermine the financial health of the industry as a whole. **In our opinion, it will be reasonable to apply an extended transition period for the alcohol industry of 60 months, while maintaining the possibility to use production equipment (including spare parts) purchased before the date of entry into force of the new regulations and their further marketing.**

Yours sincerely,

Maciej Witucki

President of the Polish Confederation Lewiatan

member of



member of



Konfederacja Lewiatan
ul. Zbyszka Cybulskiego 3
00-727 Warszawa

tel. +48 22 55 99 900
lewiatan@lewiatan.org
www.lewiatan.org.

NIP 5262353400
KRS 0000053779
Sąd Rejonowy dla
m. st. Warszawy w Warszawie XIII
Wydział Gospodarczy