BEUC The European Consumer Organisation

The Consumer Voice in Europe

Plenary vote on a Resolution opposing the draft European Commission (EC) Delegated Regulation updating the definition of 'engineered nanomaterials' in food

Letter sent to the Members of the European Parliament,
10th March, 2014

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European Parliament
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Ref.: BEUC-L-2014_092/CPE/cm

Brussels, 10 March 2014

Re: Plenary vote on a Resolution opposing the draft European Commission (EC) Delegated Regulation updating the definition of 'engineered nanomaterials' in food

Dear Member of the European Parliament,

On 12 March, you will vote on a **Motion for a Resolution[1] rejecting the draft EC delegated act updating the definition of "engineered nanomaterials" (ENM) in food.** BEUC, The European Consumer Organisation, urges you to **support** this Resolution. Indeed while we would in general support, for consistency purposes, the alignment of the definition of ENM in food with the generic nano definition in the 2011 EC Recommendation[2], the proposed new definition contradicts the very aim of the Food Information Regulation (EU) No 1169/2011 that is to **enable informed consumer choice.**

- The EC draft's suggestion to grant a **blanket exemption from "nano" labelling to food additives already on the market goes against the explicit provisions of the Food Information Regulation.** Certain food additives such as silicon dioxide (used as a free-flow agent in powdered milk, salt, instant soup, icing sugar, etc.) or titanium dioxide (a food colour) are known to be made of particles which may be at the nano size[3]. Consumers are unsure about the safety of nanotechnology for their health and that of future generations and they do not clearly see the benefits for themselves of the use of this technology[4]. The mandatory labelling of **all** ENM was decided upon by the EU legislator to allow consumers to make a fully informed choice. By restricting nano labelling to *some* food ingredients only (those not yet on the market), the draft EC delegated act will *de facto* deprive consumers of their ability to decide for themselves whether or not they do want to buy and eat foods containing ENM.

…/…

[1] Motion for a resolution on the draft Commission Delegated Regulation (EU) No …/… amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers as regards the definition of 'engineered nanomaterials'.
[2] Commission Recommendation 2011/696/EU of 18 October 2011 on the definition of nanomaterial.
[3] SWD on "Types and uses of nanomaterials, including safety aspects" accompanying the EC Communication on the Second Regulatory Review on Nanomaterials.
[4] Special Eurobarometer 341 on Biotechnology published in October 2010.

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- The draft delegated act defines an ENM as an '*intentionally manufactured*' material and further specify that 'intentionally manufactured' means it has been '*manufactured to perform/fulfil a specific function or purpose*'. We believe **this sub-definition is unnecessary** as the concept of 'intentionally manufactured', read in conjunction with 'engineered nanomaterial', is self-explanatory. We even see the **risk it could lead to abuses** on the part of manufacturers who could pretend the nano-sized ingredients they produce fulfil the exact same function as their non-nano-sized counterparts and therefore do not need to be labelled. The burden of proof would then lie on control authorities, which is not acceptable.
  ➔ Against this background, we would ask you to **support amendments 1 and 2**.

- Finally, the draft delegated act provides that for a food ingredient to qualify as 'nano', at least 50% of its particles should be at the nanoscale. This clearly **disregards scientific advice by EFSA, who recommended that a 10% threshold** should apply[5]. The 2011 EC Recommendation itself recognises that "*where warranted by concerns for the environment, health, safety or competitiveness the number size distribution threshold of 50 % may be replaced by a threshold between 1 and 50 %*".

For the above reasons, we call upon your support in favour of the Resolution when it is put to a vote in plenary on 12th March.

Yours faithfully,

Camille Perrin
Senior Food Policy Officer

[5] In a 2012 letter to the European Commission, pointing at the scientific uncertainties that still remain over the safety of ENM in food, EFSA recommended that a lower cut-off value (10%) should apply to nano food applications.