FOR INFO

Brussels, 30 May 2022

**Follow-up on the Draft joint statement of the Member States regarding the presence of Mineral Oil Aromatic Hydrocarbons (MOAH) in food, including food for infants and young children**

Dear all,

As follow-up to the updates on mineral oils, including the Foodwatch report, given in **FCP/MINO/005/21**, you will be aware of the Draft joint statement of the Member States regarding the presence of Mineral Oil Aromatic Hydrocarbons (MOAH) in food, including food for infants and young children that was published in the report of the SCoPAFF of 21 April **(FCP/016/22)**. FoodDrinkEurope had spoken with the Commission beforehand and expressed its concerns in a letter as input to the SCoPAFF April Meeting; see the Final FoodDrinkEurope letter on Mineral Oils in **FCP/MINO/003/21.**

See complete statement below:

**Draft joint statement of the Member States regarding the presence of Mineral Oil Aromatic Hydrocarbons (MOAH) in food, including food for infants and young children2**

*Following recent findings of the presence of mineral oil aromatic hydrocarbons (MOAH) in certain foods, the Commission services requested the relevant competent authorities and food business operators to follow-up on the findings and to sample and to analyse the products (stock cubes and other products) which have been found to contain MOAH, to perform investigations on the source of contamination (ingredients, food additives, food contact materials, lubricants and others) and to report on the outcome of the investigations. It is appropriate that Member States and food business operators perform controls on the presence of MOAH in microcrystalline wax (petroleum wax, synthetic paraffin) and its potential migration to food, to confirm whether the use of microcrystalline wax in food contact materials is a source of the contamination of food by MOAH and take, if necessary, measures to prevent the occurrence of MOAH in food. It should also be checked whether microcrystalline wax, used in food contact materials is claimed to be E905 (microcrystalline wax authorised for specific food additive uses) and, if this is the case, whether it complies with the specifications of E905, in particular as regards the presence of benzo[a]pyrene.*

*For the sampling and analysis, the JRC has published a “Guidance on* sampling *methods, on the performance criteria for the analytical methods and on the reporting of the analytical results (*[*https://publications.jrc.ec.europa.eu/repository/handle/JRC115694*](https://publications.jrc.ec.europa.eu/repository/handle/JRC115694)*).*

*If the quantified presence of MOAH, which are possible genotoxic carcinogens, in food including food for infants and young children is confirmed by an official control, the products concerned should be withdrawn and, if necessary, recalled from the market on the basis of Article 14 of the General Food Law (Regulation (EC) No 178/2002), to ensure a high level of human health protection. In this regard the Member States also stress the responsibilities of food business operators in accordance with Article 19 of the General Food Law.*

*In order to ensure a uniform enforcement approach throughout the EU, the Member States agreed to withdraw and, if necessary, to recall products from the market, when the sum of the concentrations of MOAH in food are at or above the following maximum LOQs:*

* *0.5 mg/kg for dry foods with a low fat/oil content (≤ 4% fat/oil)*
* *1 mg/kg for foods with a higher fat/oil content (> 4% fat/oil)*
* *2 mg/kg for fats/ oils*

*Analysis and sampling should be done according to the provisions of Regulation (EC) No 333/2007.*

The Subgroup on Mineral oils discussed the issue last 25 May as to gather intelligence on the status.

* There is still a lot of unclarity on the statement and its scope.
* Potential enforcements by Member States, considering the legal status of the draft statement.
* We hear from some Member States like Germany and Belgium that are not yet acting on it as there has no official communication being issued to the Ministries on this regard.
* One big point is that the statement skips the normal procedure to set food control limits, does not wait for the EFSA assessment to be finished, and disregards the different gaps still existing in terms of analytics of mineral oils.
* The different points of action were discussed among the group and the need to raise the issue before the next SCoPAFF meeting.
* FoodDrinkEurope has already exchanged views with FEDIOL in view of a coordinated action.
* **ACTION**: A draft document will be circulated to members addressing the concerns discussed by the group. The finished document will be used for further actions and can also be used by members to discuss with their MS authorities.
* Please see list of **statements below for reactive purposes only**.

**ACTION:**

We kindly ask all national federations and sectors to gather information on respective actions and potential enforcement in your respective member states and report back to the Secretariat (a.rodarte@fooddrinkeurope.eu). All information is needed to have the complete picture and be able to coordinate actions and raise the issue to the Commission.

Thank you for your collaboration.

Kind Regards,

The Secretariat

**FOR REACTIVE PURPOSES ONLY**

* FoodDrinkEurope members are committed to deliver the highest level of safety for foods.
* FoodDrinkEurope works closely together with all stakeholders in the supply chain, national and European authorities and related branch organisations to follow up on this topic as much as possible.
* In 2012, the European Food Safety Authority (EFSA) published a scientific opinion on mineral oil hydrocarbons (MOH) in food. Although, due to insufficient data, no Tolerable Daily Intake (TDI) could be established, it was concluded that the exposure was of potential concern.
* To better understand the presence of MOH in food commodities, the European Commission issued in 2017 a Recommendation for monitoring MOH in food and in materials intended to come into contact with food.
* Based on the data gathered in the framework of this Commission Recommendation (to which the food industry contributed with occurrence data) EFSA will update its risk assessment on MOH by end of 2022. Then discussions on a possible regulatory follow-up can be started.
* In parallel, work is still ongoing to ensure the reliability of analytical data in complex matrices. This is crucial to detect contaminations, identify sources, and apply measures throughout the supply chain.
* FoodDrinkEurope looks forward to continuing working to identify sources of MOH and implement preventive measures throughout the supply chain.
* Industry initiatives like the FoodDrinkEurope [2018 toolbox](https://www.fooddrinkeurope.eu/wp-content/uploads/publications_documents/Preventing_transfer_of_undesired_Mineral_Oil_Hydrocarbons_into_food_FoodDrinkEurope_BLL_Toolbox.pdf) to help companies prevent the transfer of MOH in food, or Food Federation Germany’s joint recommendation with the food control authorities of the federal states in Germany on the use of “[benchmark values](https://www.lebensmittelverband.de/download/benchmark-levels-moh-in-foods)” for contents of MOH represent a years-long and ongoing work to identify sources of MOH and implement preventive measures throughout the supply chain and to ultimately reduce the occurrence of MOH as low as technically feasible.
* The food industry takes the problem of inputs of undesirable mineral oil hydrocarbons in food very seriously, and any individual measurement results reported by organisations and institutions must be taken seriously and be checked in regard to analytics and sources of contamination.
* We want to reiterate that companies are committed to identify the sources of MOH and minimize them. Risk management measures are only justified if it is scientifically proven that there is a food safety problem: risk assessors and managers need to examine the overall exposure independently of the sources and whether the final product poses a health risk for consumers. Considering all potential sources of possible contamination of MOH, unilateral intervention at one possible source does little to solve the problem but creates much burden.
* Thus, thorough investigations should be taken for each incident to elucidate if there is an acute food safety problem that would justify risk management measures. Nevertheless, and in general, there is no acute food safety problem based on normal consumption habits.