



Information note

New draft German “Printing Ink Ordinance” (21st ordinance amending the Consumer Goods Ordinance”)

On 16 August 2021, the German Federal Government submitted the 21st ordinance amending the German Consumer Goods Ordinance to the Federal Chamber (the representation of the German federal states) for approval; this amendment is also called the “Printing Ink Ordinance” (“Druckfarbenverordnung”). If the Federal Chamber approves, then the draft regulation is expected to be published in the Official Journal soon. However, the draft ordinance foresees that the relevant provisions are applicable only after a transitional period of four years.

Background:

In July 2016, Germany notified a draft of the "Printing Ink Ordinance" to the European Commission pursuant to Directive (EU) 2015/1535. Eight EU member states had expressed their concerns in the form of "detailed opinions". Two EU member states and the EU Commission itself had submitted "comments".

In appreciation of the objections raised, the EU Commission had informed that it intended to adopt EU legislation on printed food contact materials and invited Germany to postpone its national measure. In the course of the work on the EU legislation on printed food contact materials and articles, the Commission identified, however, potential fundamental deficiencies in the existing regulatory framework (the Framework Regulation (EU) No 1935/2004), which will first be examined in the context of a broad-based evaluation, before the work on specific measures within the meaning of the Framework Regulation, such as paper and cardboard, adhesives, but also printing inks, can be continued. The priority of this project over issuing further specific measures is understandable with regard to a consistent legal framework on a European level. The current timetable does not suggest that such specific harmonized measures can be expected before 2022.

Due to the changed timetable at the European level, the Federal Ministry of Food and Agriculture (BMEL), which is in charge, has taken up its original initiative in 2020. The core of the German draft ordinance is a positive list of substances that only may be used for the production of printing inks for food contact materials and articles. This list has been extended only slightly compared to the draft notified in 2016 and is still incomplete. Currently, raw material manufacturers continue to work on the completion of this list; they are supported by the printing ink industry. Since the ordinance can only be practicable, if the positive list is complete, the federal government has foreseen a transitional period of four years before the relevant provisions become applicable. This shall enable the raw material suppliers to have as many essential raw materials as possible evaluated by the Federal Institute for Risk Assessment (BfR)



and thus to establish the prerequisite for the inclusion of the substances in the positive list.

It is important to emphasize that printing inks which are intended to be printed on food contact materials, and which are manufactured or distributed in accordance with the relevant guidelines of the European Printing Ink Association EuPIA, comply with all relevant applicable European legislation on food contact materials. This applies regardless of whether or not their components are included in the list of the draft German ordinance.

VdL and the entire food packaging chain emphasize that a national regulation does not reflect the complex flow of goods within the EU; it thus jeopardises the functioning of the EU internal market. Only a harmonised European measure for printed food contact materials is sensible and can achieve the intended objectives. The printing ink industry therefore supports the European Commission in its efforts to achieve a consistent European regulation and advocates the adoption of a regulation for printed food contact materials at European level. The German Federal Government in principle also recognises the priority of a European regulation. Should a corresponding European regulation be presented within the transitional period of the German ordinance, it can therefore be assumed that this will affect the application of the national ordinance.

Against the background of the still incomplete positive list in the draft regulation and the transitional period set for completing the list, there is currently no basis for requesting confirmations of compliance with the requirements of the draft of the Printing Ink Ordinance.

This information note is updated as soon as new information becomes available.

VdL, 26 August 2021