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EU STOPS SCIENTIFIC INVESTIGATION INTO OXO PLASTIC

On 8th May 2019 it was announced that the EU Commission had instructed its scientific experts, the European Chemicals Agency (ECHA) to terminate their inquiry into “oxo-degradable” plastics. There is therefore no scientific dossier published by ECHA to support any restriction on such plastics in Europe.

In January 2018 the Commission published a Report in which they said that “a process to restrict the use of oxo-plastics in the EU will be started.” This is the correct way to give effect to the precautionary principle in the EU, and the Commission asked ECHA to investigate under Art. 69 of REACH, because the Commission thought that these plastics created microplastics.

In July 2018 the Oxo-biodegradable Plastics Association (OPA) submitted a detailed scientific dossier to ECHA, and on 30th October 2018 ECHA advised that it was not yet convinced that microplastics are formed. It was at about that time that the Environment Committee of the EU Parliament was persuaded to insert a ban on “oxo-degradable” plastics into the draft Directive. No such ban had been proposed in the Commission’s 2018 Report and it had not been included in the draft Directive submitted by the Commission to the Parliament and Council.

In fact, microplastics are formed by the disintegration of ordinary plastics, and they are very persistent.

The opponents of “oxo-degradable” technology have therefore sought to evade the well-established procedure for restricting products in Europe, laid down in Arts 68-73 of REACH, and therefore to deprive all stakeholders of the safeguards which those Articles provide, including a scientific dossier complying with Annex XV, review by two committees, and public consultation.

This is astonishing, and shows the extent to which the processes of the EU can be manipulated against the public interest. The OPA has long believed that the “bio-based” plastic industry has been lobbying hard within the EU against products which they see as a threat to their market-share. This is however hard to understand in this case, because bio-based plastic is intended for transporting organic matter to industrial composting facilities and to biodegrade under those conditions. By contrast, oxo-biodegradable plastic is intended to biodegrade if it gets into the open environment as litter. There is room for both technologies in Europe.

We now find that the instruction to ECHA was co-signed on behalf of the Commission by Carlo Pettinelli, who is a member of the Board of the Bio-based Industries Joint Undertaking, which also includes a representative of Novamont, a large Italian producer of bio-based plastics.

There is a difference between oxo-degradable and oxo-biodegradable plastics¹ The OPA agrees that there is a case for banning plastics which merely fragment, but this does not apply to Oxo-biodegradable plastics. These plastics are necessary, because they are for the time being the only way to prevent the accumulation of plastic in the open environment. They do this by degrading much more quickly than ordinary plastic so that they can then be recycled back into nature by bacteria and fungi, and will not accumulate as a problem for future generations.² If collected during their useful life they can be recycled with ordinary plastic.

This draft Directive has not yet been adopted by the Council, but if it is adopted there could very well be legal action to declare the proposed ban invalid, and to make it clear that it does not apply to oxo-biodegradable plastic.

For more information please contact info@biodeg.org

¹ See CEN definitions in TR15351

² See <http://www.biodeg.org/2018/11/06/uk-judge-find-the-case-for-oxo-biodegradable-plastic-proven/>