

FoodDrinkEurope views on the revision of EU legislation on Food Information to Consumers and the setting of nutrient profiles

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IN BRIEF

The European food and drink industry is committed to improve the provision of clear, factual, and relevant food information on the path towards more sustainable and healthy diets, in line with the objectives of the EU Farm to Fork Strategy.

In this paper, FoodDrinkEurope provides its views, technical knowledge, and consumer insights to find common, harmonised solutions for improved food labels in the context of the Revision of Regulation EU No 1169/2011 on Food Information to Consumers.

KEY MESSAGES

- **FoodDrinkEurope calls for a voluntary EU harmonised FOPNL scheme with the backing of a broad majority of stakeholders and under EU-level governance.**
- **Any nutrient profiling model that may be adopted at EU level should undergo a thorough scientific validation to ensure the correct classification of foods for the purpose for which the model is being developed.**
- **The obligation to indicate the origin of food, even when harmonised at EU level, may still lead to national segregation of markets, operations and production lines, with negative consequences for businesses, consumers, and the environment.**
- **The principle of a safety-based descriptor (“use by”) and a quality-based descriptor (“best before”) for date marking is appropriate and should not be changed as such.**
- **The implementation timing should be grouped into one single date to avoid a succession of costly label changes, unnecessary waste, and to ensure an orderly implementation. A proper and proportionate transition period should be provided.**

Introduction

Provision of food information to consumers is one of the key tools to empower consumers to make informed choices that fit their individual diets and lifestyles. Since the adoption of Regulation (EU) No 1169/2011 (hereafter: FIC Regulation), European food and drink manufacturers have taken this very seriously, as demonstrated by high compliance rates with the requirements of the FIC Regulation and increasing transparency of food products and processes on a voluntary basis.

Over the last decade and as part of the FIC Regulation and beyond, many new food labelling requirements have been introduced in the EU. Considering the plethora of consumer information requirements covering various aspects of food products (environment, nutrition, origin, animal welfare, etc.), and the European Commission's intent to develop an EU sustainable food labelling framework, the European Commission needs to undertake a holistic reflection at EU-level to avoid information overload for the consumer and negative impact on business.

Such a reflection should take into account, amongst others: the actual goals which are expected to be achieved (i.e. helping consumers make well-informed choices); effectiveness of current consumer information provision; consumer motivation and understanding; consistency and coherence between the various food information elements; practical feasibility for business; impact on the Single Market and international trade; and the role of digital consumer information solutions.

In the digital transition era, digital means of communication may play an important role in facilitating additional demands for transparency and information, particularly as food label space is limited. Digital labelling can also reduce packaging waste, encourage resource efficiency, and decrease production costs. It can also provide product information in a targeted and personalised way, boosting the overall accessibility and availability of the information. FoodDrinkEurope encourages the European Commission to recognise the potential of digital labelling solutions and to provide guidance for their further development and use.

Front-of-pack nutrition labelling

Many European food and drink manufacturers have long provided consumers with supplementary information about the nutrient content of food and drink products on a voluntary basis, in addition to the mandatory nutrition table on the back-of-pack. The European food and drink industry spearheaded voluntary front-of-pack nutrition labelling (FOPNL) in 2005, through the introduction of Guideline Daily Amounts (GDA), now "[Reference Intakes](#)", which to date remains the only pan-European scheme in use.

A variety of approaches to FOPNL exists across the EU. In light of the need for a more coherent and coordinated approach to FOPNL in the EU, FoodDrinkEurope calls for a voluntary EU harmonised scheme with the backing of a broad majority of stakeholders and under EU-level governance. Food business operators opting for the EU scheme should be able to use the scheme throughout the whole EU market. A legally sound solution, coherent with the EU framework, should be found to take into account market realities where there is a well-established use of specific FOPNL schemes, such as the Keyhole in Nordic countries, and that takes current and possible future complexities from the impact of Brexit to Irish

consumers into consideration. National schemes should only be used on a voluntary basis, Member States or retailers may not impose them on a mandatory basis.

An EU harmonised scheme on FOPNL should consider the following elements:

- **Faithful to its objectives:** The scheme should inform on the nutritional aspects of foods and be in line with food-based dietary guidelines. It should help consumers make informed food choices that fit their dietary needs and lifestyles. Portion size and portion size guidance can continue to play a role in helping consumers select a healthy and balanced diet.
- **Objective and non-discriminatory:** The future EU FOPNL scheme should exclusively be used to inform consumers on the nutrient content of a food product, based on scientific evidence. No food product or category should be excluded ‘a priori’ from the possibility of bearing a FOPNL. It should not be used as a tool to discriminate against specific food products, food categories, nutrients or ingredients as being healthy/unhealthy per se (e.g. warning labels). Any food can be part of a healthy diet, when consumed in the appropriate amount and frequency. Consideration should be given on how to address product categories that are currently exempt from a nutrition label, such as non-prepacked food and food from a single ingredient category.
- **Based on robust independent scientific evidence and research:** The future EU-wide FOPNL scheme should be based on rigorous, independent scientific evidence, including clear evidence about consumer understanding of the scheme. Once adopted, regular systematic reviews should be undertaken to monitor its effectiveness and to translate latest developments of scientific knowledge into the scheme. These reviews must allow for proper and proportionate transition periods for businesses to implement the latest scientific developments.
- **Accompanied by suitable information campaigns:** The scheme should be grounded in a suitable EU-wide public information campaign to ensure consumer understanding. In addition to explaining how to interpret and use the scheme, public information campaigns should be undertaken to educate consumers about nutrition and healthy lifestyles.
- **Exclusions and exemptions:** The future EU-wide scheme should consider exemptions, for instance for foods for population groups with different nutritional needs than the general adult population (such as foods covered by Regulation (EU) No 609/2013 and young-child formula) and other categories for which exclusions and exemptions from nutrition declaration are foreseen (e.g. in the FIC Regulation currently in force and as per Codex Alimentarius Standards).

Nutrient profiles

The nutrient composition of individual foods is not the most important determinant of a diet. Other factors, such as quantity, frequency, variety and combination of the foods and drinks consumed, lifestyle and cultural habits should also be considered when determining what a balanced diet is, and hence when devising any nutrition policy measure, including nutrient profiles.

At present, only Article 4 of Regulation (EC) No 1924/2006 on nutrition and health claims made on foods provides for a legal basis for the setting of nutrient profiles, in the specific context of restricting the use of nutrition and/or health claims on certain foods. We are convinced that any model that may be developed at EU level should:

- Be based on a thorough scientific validation to ensure the correct classification of foods for the purpose for which the model is being developed.
- Should not exclude ‘*a priori*’ any category from the possibility of making claims.
- Be aligned with food based dietary guidelines.
- Consider the benefits of specific nutrients (e.g. essential fats and proteins), ingredients and also non-nutrient components such as fibre.
- Should take into account the ability of the food and drink industry to innovate, without invalidating efforts towards food reformulation. Product innovation and reformulation should be encouraged and supported through a conducive regulatory framework.

Country of origin labelling

FoodDrinkEurope highly values transparency of food information and notes that consumers are increasingly interested in information about the origin of some categories of food products. In response to this, European food and drink manufacturers are providing the origin of their products and their ingredients on a voluntary basis, led by market demand and where this is feasible from an operational point of view. This approach also helps promote the high quality of European food products throughout the world.

Over the past years, FoodDrinkEurope has repeatedly raised concerns about the proliferation of national rules on mandatory country of origin labelling across the EU. Such national initiatives compromise the smooth functioning of the Single Market and harm the competitiveness of the European food and drink sector. The development of such initiatives should thus be avoided by EU Member States and be discouraged by the European Commission when national laws do not meet the requirements set in Art. 39(2) of Regulation (EU) No 1169/2011 on the provision of food information to consumers, as the European Court of Justice clarified in its recent judgement on the “Groupe Lactalis” Case ¹.

While we understand and welcome the Commission’s intent to address the fragmentation of national measures on the EU Single Market, the obligation to indicate the origin/provenance of food even when harmonised at EU level, may still lead to national segregation of markets, operations and production lines (e.g. separate logistic flows, additional cleaning procedures, etc.), with the negative consequences it may bring – not only for businesses, but also for consumers and the environment.

Economic impact

An extension of mandatory origin labelling will inevitably decrease the sourcing flexibility of the supply chain. Though often using local suppliers, companies purchase their raw materials from other countries or on the world market for different reasons (e.g. seasonal availability, quality, price, sustainability). Further extension of mandatory origin labelling to other product categories will either take away all flexibility for companies to deviate sourcing in case of

¹ Judgment of 1 October 2020, *Groupe Lactalis v Premier Ministre and Others*, C-485/18, ECLI:EU:C:2020:763.

supply chain problems or would mean the constant adaptation of food labels leading to higher costs and rising packaging waste.

To prevent supply shortages, companies might decide to commit to suppliers that can guarantee high and steady volumes, thus disadvantaging smaller producers and producers from small Member States, consequentially triggering re-nationalisation/segregation of supply chains, with distortive effects on competition. It is important to accommodate flexibility to enable manufacturers to respond to unforeseen challenges due to fluctuations in seasonal availability, quality differences, costs, sustainability of raw materials and force majeure events (e.g. natural disasters, outbreak of hostilities, etc).

Impact on consumers

It is commonplace to shift the origin of ingredients according to seasonal availability and quality; mandatory origin labelling may push companies to use fewer local ingredients, rather than more, in order to avoid a constant change of labels. This could ultimately have an impact on the range of products offered, to the detriment of consumers. Consumers might also have to bear some of the additional costs arising from mandatory country-of-origin labelling.

Environmental impact

It cannot be simply assumed that the provision of mandatory origin information leads to more sustainable choices and reduces the environmental impact of the food system. Quite the contrary, less efficient food supply chains (e.g. separate storage facilities, production lines and transport operations will have to be put in place to keep ingredients from different origins separated) will inevitably create more waste and an increased use of energy and other resources.

Moreover, the assumption that local production and short food supply chains are more sustainable in comparison to global supply chains *per se* is highly questionable. In fact, emerging evidence shows that short food supply chains could generate greater environmental externalities in certain instances². Furthermore, origin indication is often wrongfully perceived as a proxy for food sustainability, food quality or as a tool to combat food fraud.

Date marking

FoodDrinkEurope shares the European Commission's objective to halve food waste by 2030 in line with SDG Target 12.3. In this regard, FoodDrinkEurope has been an active member of the EU Platform on Food Losses and Food Waste since its establishment and its members have successfully reduced food losses throughout the food supply chain over recent years. FoodDrinkEurope believes that policies and measures arising from the Farm to Fork Strategy should promote harmonised, coherent and effective action to tackle food loss and waste along the entire food supply chain.

² See, *inter alia*, Malak-Rawlikowska et al. (2019), "Measuring the Economic, Environmental, and Social Sustainability of Short Food Supply Chains", Sustainability 2019, 11, 4004.

FoodDrinkEurope believes that the principle of a safety-based descriptor (“use by”) and a quality-based descriptor (“best before”) are appropriate and should not be changed as such. However, in some languages, “best before” and “use by” may be very close in meaning. Accordingly, the FIC Regulation could be amended to make sure that the wording used in each Member State for “best before” and “use by” is the best suited to guarantee consumer understanding of date marking.

Policy measures should be proportionate to the objective that is being pursued. If any additional wording is being proposed to accompany the ‘best before date’ and ‘use by date’ this needs to be voluntary, feasible for the business, and meaningful for the consumers. The introduction of any new logo on food packages needs to be carefully evaluated from a consumer understanding perspective in the overall context of the rapid increase of on-pack logos. In this regard, we would like to highlight that graphic requirements always entail additional production costs (printing, packaging, ink costs, etc) with impact on production capacity, and they are often not technically feasible due to technological limitations. Moreover, less efficient supply chains have a negative environmental impact (e.g. by generating additional packaging and less efficient use of resources). Therefore, graphical elements should be avoided.

A date marking scheme that provides information on the shelf-life of a product is essential for the logistics of the food supply chain. Removing the “best before” date or replacing it with a different date (like the production date) can cause stock management issues, and hence a potential increase in food waste. The removal of the “best before” date would deprive the consumer of relevant information about the time during which the product still retains its organoleptic qualities, leading consumers to discard the product when its quality is still good.

A harmonised, reliable and coherent consumer-facing date marking system is one of the tools that can help prevent food waste. This must be coupled with coordinated and enduring EU-wide communication initiatives (e.g. through social media, partnerships with schools and national media) to raise awareness of other ways to prevent and reduce food waste. The European Commission should convene all relevant stakeholders for a joint EU initiative to improve consumer understanding of date marking, instead of changing the legislative provisions. We welcome all actions to make consumer communications clearer and more harmonised. The most cost-effective solution would be to maintain the status quo while substantially investing into consumer education.

Transition period

If the revision of the FIC Regulation results in several labelling changes, FoodDrinkEurope respectfully requests that the implementation timing is grouped into one single date to avoid a succession of costly label changes, unnecessary waste, and to ensure an orderly implementation. A proper and proportionate transition period (e.g. three years or more) should be provided for the industry to phase out the old labels and to adjust to the new labelling requirements. Products that have been lawfully placed on the market before the end of the transition period should be permitted to stay on the market until stocks are exhausted.

About us

The EU food and drink manufacturing industry is made up of 290,000 businesses employing 4.5 million people. It generates €222 billion in value added every year and is the largest manufacturing industry in terms of jobs created. As an industry comprised of 99% SMEs our enterprises are intimately linked with their local communities. FoodDrinkEurope is the organisation of the European food and drink manufacturing sector, committed to achieving more sustainable food systems.