

Summary:

The EC has recently introduced a comprehensive new food labelling proposal which seeks to modernise and improve EU rules in order to provide consumers with the information they need, in a clear and legible manner, to permit informed food and drink purchasing choices. The proposal is attached for your reference. It also seeks to simplify the current legislative regime by merging various existing labelling directives into one, comprehensive regulation directly applicable in all 27 Member States. The EC believes that by establishing a clearer, more harmonised legislative framework for food labelling, all economic operators will benefit from uniform application of labelling and presentational requirements throughout the entire EU. While retaining the *status quo* on much of the general labelling provisions, key aspects of the draft Regulation include new mandatory front-of-package nutritional labelling (i.e., energy, fat, saturated fat, carbohydrates with specific reference to sugars and salt content per 100ml/g or per portion), and the extension of current allergen labelling requirements to cover food sold in restaurants and other catering establishments.

Report:

The EU legislative overhaul of food labelling seeks to simplify the rules that currently apply in this field, in line with the EC's broader policy objective of better regulation. Its stated aims are to modernise, simplify and clarify the food labelling rules, and will combine two major existing labelling directives now perceived to be outdated: Directive 2000/13/EC on general labelling requirements for all foodstuffs and Directive 90/496/EEC adopted by the EU in 1990 on nutrition labelling.

Overall, the general provisions for food labelling will remain the same under the new proposal. This means that certain compulsory information has to be included on all labels, including the name of the product, the list of ingredients, the best before or use-by date of the product, any special conditions of use, and the name and address of the manufacturer (please consult Articles 9 & 10, Section 1 for the full list of mandatory particulars).

Front-of-Package Labelling:

Under the new proposal, front-of-pack nutrition information would become mandatory for nearly all pre-packaged processed foods (please see derogations below for exceptions to this rule). There would be on the front of package the energy, fat, saturated fat, carbohydrates with specific reference to sugars and salt content of the product expressed in terms of 100ml/100g or per portion. In addition, the amount of these elements in relation to the reference intakes will have to be indicated.

Provided the mandatory elements are displayed clearly on the front-of-pack in line with the requirements set out in the EC's proposal, producers are free to determine how they wish to display this information.

Country of Origin Labelling:

The draft regulation proposes to keep country of origin labelling on food as voluntary, unless its absence could mislead consumers (see Article 9(1)(i), Section I for this specification) . The country of origin should be determined in accordance with the Community Customs Code. However, certain criteria are laid down for producers who do not wish to put the country of origin or place of provenance on the label of their products. It should be noted that the separate rules that currently exist on origin labelling for beef

and veal will continue to co-exist with the new proposal. The draft Regulation foresees that voluntary country of origin labelling on all other types of meat should provide information on the different locations of birth, rearing, and slaughter of the animal in so far as that animal has not been born, reared and slaughtered in the same country or place (Article 35, Chapter V).

Given the general provision that country of origin labelling should remain voluntary, the draft proposal does however stipulate specific circumstances when a Member State could make country of origin or provenance labelling mandatory i.e., on the grounds of public health protection, consumer protection, prevention of fraud and the protection of industrial and commercial property rights (Article 38, Chapter VI). In this instance, a Member State must duly notify any such measure to the EC, and must be able to demonstrate an established link between certain qualities of the food and its place of origin. Moreover, they must provide evidence that; “the majority of consumers attach significant value to the provision of this [origin/provenance] information” and that this information would influence purchasing choices on the basis of certain qualities of the food [Article 38(2)].

Allergen Labelling:

While the EU currently already has allergen labelling in place to cover pre-packaged foods, the new proposal would extend the scope of labelling to cover all food containing allergenic substances (such as peanuts, milk, mustard or fish – see Annex II for the complete list) including food consumed in restaurants and by other food catering facilities. It has been cited by the EC that given 70% of anaphylactic shocks occur when people are eating out, people with allergies need to protect themselves regardless of whether the food is packaged or not.

Derogations: General Exemptions

Exemptions from the regulation vis-à-vis ingredients listing and nutritional labelling are set out in Articles 19, and 20, Section 2 and Article 29, Section 3 respectively. These include exceptions for fresh fruits and vegetables, carbonated water, fermentation vinegars, cheese, butter, fermented milk and cream, food supplements, natural mineral waters, and alcoholic beverages.

Transitional Measures:

The requirement for front-of-package mandatory information would apply 3 years after the entry into force of the Regulation to allow industry time to adjust to the new requirements, while small food business operators (i.e., with less than 10 employees) would be given a 5 year transitional period.

Next Steps:

This EC proposal will now be transmitted to the European Council (Member States) and the European Parliament for approval under the co-decision procedure. Once adopted by these two institutions, the Regulation would legally enter into force 20 days after its publication in the Official Journal. Practically, please note the transitional measures for operators discussed previously. The entry into force of this new proposal will also have the effect of repealing the general horizontal labelling provisions on foodstuffs as laid out in Directive 2000/13/EC and all its subsequent amendments. **Please note that we will not know the exact content and technical details of the proposal with certainty, until the proposal has been approved and duly adopted by the EU.**