

Food information to consumers

2008/0028(COD) - 16/03/2010

The Committee on the Environment, Public Health and Food Safety adopted the report drawn up by Renate SOMMER (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on the provision of food information to consumers.

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission proposal as follows:

Subject matter and scope: the committee clarified the scope of the proposal. It will apply to all prepacked foods intended for delivery to the final consumer and foods intended for supply to mass caterers. However, it will not apply to foods which are packaged directly at the place of sale before delivery to the final consumer. Catering services provided by transport undertakings shall fall within the scope of this Regulation only if they are provided on routes between two points within Union territory. The Regulation shall not apply to any food prepared other than in the course of a business, the concept of which does not imply a certain continuity of activities and a certain degree of organisation. Operations such as the occasional handling, serving and selling of food by private persons at events such as charities, or local community fairs and meetings shall not fall within the scope of the Regulation.

The Commission shall publish by the date of entry into force of the Regulation a list of all labelling requirements provided for in specific Union legislation applicable to particular foods and shall make this list accessible on the Internet. Within 18 months of the date of entry into force, the Commission shall publish a comprehensive and updated list of the labelling requirements provided for in specific Union legislation applicable to particular foods, and submit a report to the European Parliament and the Council on the compliance of those specific labelling requirements with the Regulation. The Commission shall, if appropriate, accompany that report with a relevant proposal.

Definitions: the report deletes the definitions of primary ingredient(s)' 'significant ingredient(s)' and characterising ingredient(s)'. It states that the Commission's attempt to add on to the existing provision on origin labelling is rejected. There is no need to have definitions of primary, significant and characterising food ingredients hitherto not used in the context of food law.

The report amends certain definitions, including those for 'mass caterers', 'prepacked foods' and 'ingredient', and inserts definitions for 'non-prepacked food', 'legibility' 'use-by date', date of manufacture' and 'food imitation'.

For meat and foods containing meat, the country of origin shall be defined as the country in which the animal was born, reared for most of its life, and slaughtered. If different, all three places shall be given when reference is made to the 'country of origin'.

General objectives: Members stipulate that food labelling must be easily recognisable, legible and understandable for the average consumer. New food labelling rules shall be introduced in accordance with a standard date of implementation to be set by the Commission after consulting Member States and interest groups.

Principles governing mandatory food information: the relevant categories must also include conservation requirements once the product is opened, if applicable but will not include the health impact. The committee states that the overriding aim of the regulation is not to protect consumers' health,

for example by making health warnings mandatory, but rather to enable consumers to make well informed purchasing decisions on the basis of nutrition information, so that they enjoy a balanced diet and, in the long term, better health.

When considering the need for mandatory food information, account shall be taken of the potential costs and benefits to stakeholders (including consumers, producers and others) of providing certain information.

Fair information practices: the committee states that food information shall not be misleading, inter alia, by suggesting in the description or pictorial representations on the packaging the presence of a particular product or an ingredient although in reality the product which the packaging contains is an imitation food or contains a substitute for an ingredient normally used in a product. In such cases, the packaging must prominently bear the marking 'imitation' or 'produced with (designation of the substitute ingredient) instead of (designation of the ingredient replaced)'. The particular food product that is an imitation or contains a substitute shall, where feasible, be separated from other food at the place of sale. Food information must not be misleading by explicitly advertising a substantial reduction in sugar and/or fat content, even though there is no corresponding reduction in the energy content (expressed in kilojoules or kilocalories) of the food in question. It must not use the description 'suitable for persons with special dietary requirements', if the food in question does not comply with Union rules on foods intended for persons with such requirements.

Responsibilities: the committee states that if food business operators responsible for retail or distribution activities which do not affect food information learn that a food does not comply with the provisions of this Regulation, they shall withdraw this food immediately from distribution.

List of mandatory particulars: mandatory particulars must cover the date of minimum durability or, in the case of foodstuffs which, from the microbiological point of view, are perishable, the 'use by' date; in the case of frozen products, the date of manufacture; any special storage conditions and/or conditions of use; including specifications on refrigeration and storage conditions and on the conservation of the product before and after the opening of the package, when it would be impossible to make appropriate use of the food in the absence of this information, and the name or business name or a registered trademark and the address of the manufacturer established within the Union, of the packager and, for products coming from third countries, of the seller/the importer or, where appropriate, of the food business operator under whose name or business name the food is marketed;

The report adds that the origin or place of provenance shall be given for the following: meat, poultry, dairy products fresh fruit and vegetables, other single ingredient products and meat, poultry and fish when used as an ingredient in processed foods. For meat and poultry, the country of origin or place of provenance may be given as a single place for animals only where the animals have been born, reared and slaughtered in the same country or place. In other cases information on each of the different places of birth, rearing and slaughter shall be given.

Where there are reasons which would make it impractical to label the country of origin, the following statement may be given instead: "Of unspecified origin".

Members state that since the list of mandatory particulars is the core of the Regulation, the forms of expression of these particulars should not be changed by means of the Comitology procedure, which is designed to amend non-essential elements.

Derogations for micro-enterprises: a new clause lays down certain derogations for handcrafted products produced by micro-enterprises.

Comitology: the committee deleted the Commission's power to provide for derogations, in exceptional cases. It also deletes the Commission's power to establish the availability of certain mandatory particulars by means other than on the package or on the label.

Presentation of mandatory particulars: the Commission had provided the font sizes of mandatory particulars in the text. However, the report wants criteria like font size, font type, contrast between the font and background, line and character pitch to be determined by means of the consultation procedure. Abbreviations, including initials, may not be used if they are liable to mislead consumers. The committee adds that indicating the mandatory particulars shall not lead to an increase in the size and/or bulk of the packing material or food container and shall not otherwise increase the burden on the environment.

Language requirements: foods sold in a duty-free zone may be placed on the market with a form of words presented solely in English.

Omission of certain mandatory particulars: the report makes amendments to the provisions on glass bottles, packaging or containers the largest printable surface of which has an area of less than 80cm², non prepacked foods including those provided by mass caterers and food chains.

List of ingredients: Members state that for products containing nanomaterials, this must be clearly indicated, using the word 'nano', in the list of ingredients. They also added some particular provisions on food containing egg products.

Labelling of certain substances causing allergies or intolerances: the relevant ingredient must always be indicated in the list of ingredients in such a way that the potential for allergy or intolerance is immediately clearly recognisable. However, the committee states that this is not required where the food is not prepacked. In this case it must be indicated in a clearly visible manner in the sales area or on menus that : customers can obtain information regarding allergenic substances directly during the sales talk and /or by means of material displayed on the premises the possibility of cross-contamination cannot be excluded.

Minimum durability date, 'use-by' date and date of manufacture: the report stipulates that the appropriate date shall be easy to find and shall not be hidden. Members state that for the sake of clarity, Annex IX should be incorporated into the legislative text and amplified to include provisions on the date of manufacture. The derogation from the requirement to indicate the date of minimum durability for ice cream packaged in individual portions is deleted. Individual portions can be separated from the package or lot in which they have been sold, so it is essential that each detachable portion bears the date of minimum durability.

Nutrition labelling: the mandatory nutrition declaration must include the amounts of protein, carbohydrates, fibre, natural and **artificial trans fats**. The provisions do not apply to beverages containing alcohol. The Commission had only made reference to wines, beers and spirits. The committee states that if wine, beer and spirits are excepted but other alcoholic beverages are not, harmonisation in the industry will be impossible. That would favour certain products and discriminate against others. It would distort competition and consumers would be misled about the respective composition of different products.

The list of nutrients which may additionally be indicated voluntarily in the nutrition labelling should accord with other EC legislation (e.g. Regulation (EC) No 1925/2006 on the addition of certain substances to foods), and the text is supplemented accordingly. The amendment ensures that cholesterol may also be included in additional nutrition labelling.

Calculation: conversion factors for the vitamins and minerals mentioned in Annex XI, in order to calculate more precisely their content in foods, shall be set and included in Annex XII by the Commission.

Furthermore, in the interests of legal certainty, the text indicates more specifically that the average values must relate to the end of the minimum durability period. The committee states that natural or added vitamins and minerals are subject to natural decomposition and fluctuation processes. For example, in the course of the minimum durability period of a product Vitamin C can decompose substantially through natural processes (depending on storage conditions, sunlight, etc.).

The determination of the permitted level of differences between the declared values and those established in the course of official checks will be crucial for the application of the Regulation and should therefore be decided upon in accordance with the regulatory procedure with scrutiny.

Forms of expression: the text retains the mandatory stipulation that the nutrition declaration should refer to 100 g/100 ml amounts. It allows additional portion-based declarations. If the food is prepacked as an individual portion, a nutrition declaration per portion is, in addition, compulsory. If information is provided per portion, the number of portions which the package contains must be indicated, the portion size must be realistic and it must be presented or explained in a manner which is comprehensible to the average consumer. In cooperation with food enterprises and the competent authorities of the Member States, the Commission shall develop guidelines for the indication of realistic portion sizes.

Trans fats shall be part of the mandatory nutrition declaration in addition to saturated fats and therefore shall be removed from the voluntary particulars.

Additional forms of expression: such forms must be supported by independent consumer research evidence which shows that the average consumer understands the form of expression.

Presentation: in addition to the presentation in kilocalories per 100 g/ml and, optionally, per portion), the energy content labelling required shall appear in the bottom right-hand corner of the front of the packaging, in a font size of 3 mm and surrounded by a border. Gift packagings are exempt from the requirement to repeat the energy content on the front of the packaging.

The committee adds that foods such as infant formulae, follow-on formulae, complementary foods for infants and young children and dietary foods for special medical purposes falling under Council Directive 2009/39/EC are specifically formulated to meet the particular nutritional needs of their target population. The requirement to include a nutrition declaration is not in line with the use of these products.

Five years after entry into force of this Regulation, the Commission shall present an evaluation report on the form of presentation.

Origin Food Labelling: all relevant information regarding voluntary food information schemes, such as the underlying criteria and scientific studies, shall be made available to the public. Additional voluntary nutrition information for specific target groups, for example children, shall continue to be permitted provided that these specific reference values are scientifically proven, do not mislead the consumer and are in accordance with the general conditions laid down in this Regulation.

In certain cases, food shall be labelled 'Manufactured in the EU (Member State)'. In addition, a region of origin may be indicated. Such voluntary indications of the country or the region of origin shall not impede the internal market.

The term 'vegetarian' should not be applied to foods that are, or are made from or with the aid of products derived from animals that have died, have been slaughtered, or animals that die as a result of being eaten. The term 'vegan' should not be applied to foods that are, or are made from or with the aid of, animals or animal products (including products from living animals).

Promotion of additional voluntary schemes: a new clause lays down the conditions under which Member States may decide to promote additional voluntary schemes to present the nutrition information using other forms of expression. The Commission shall facilitate the exchange of information on matters relating to the adoption and implementation of national schemes and shall encourage the participation of all stakeholders in this process. It shall also make such details available to the public. On the first day of the month 5 years after the entry into force of the Regulation, the Commission shall undertake an evaluation of the evidence gathered on consumers' use and understanding of the various national schemes in order to determine which performs best and is most useful to European consumers. Based on the outcomes of that evaluation, the Commission shall come forward with a report, which shall be sent to the European Parliament and to the Council.

National measures for non-prepacked food: the committee states that due to the difficulties of labelling inherent to non-prepacked foods, these foods should in principle be exempt from most labelling requirements – excluding allergen information. Member States should retain the flexibility to decide how information should best be made available to consumers.

Annexes: the report makes several amendments to the Annexes. On vitamins and minerals, it states that the Recommended Daily Allowance values should be brought into line with the new reference values in accordance with the modification of the Nutrition Labelling Directive, 2008/100/EC.