Food information to consumers

2008/0028(COD) - 16/06/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 559 votes to 54 with 32 abstentions a legislative resolution setting out its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) on the proposal for a on the proposal for a regulation of the European Parliament and of the Council on the provision of food information to consumers. The main amendments are as follows:

Subject matter and scope: Parliament clarified the scope of the proposal. The Regulation applies to all stages of the food chain, where the provision of food information to the final consumer is concerned. 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 the 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: Parliament deletes the definitions of primary ingredient(s)''significant ingredient(s)'and characterising ingredient(s)'. It amends certain definitions, including those for 'mass caterers', 'prepacked foods' and 'ingredient', and inserts definitions for 'non-prepacked food', 'legibility', 'date of manufacture', 'food imitation, "single-ingredient product" and '"handcrafted food product".

Objectives: the provision of food information shall pursue a high level of protection of health, transparency and comparability of products, in the interests of consumers, and shall provide a basis for informed choices and safe use of food. Food labelling must be easily recognisable, legible and understandable for the average consumer.

Principles governing mandatory food information: the relevant categories must include information on the identity and composition, quantities, properties or other characteristics of the food, and on durability, storage, conservation requirements once the product is opened and safe use. However, they will **not include the health impact**. 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: Parliament 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)'. Food information shall also not be misleading by :

- suggesting, in the case of meat products, that a product comprises one piece of meat, although it in fact consists of combined meat pieces. In such cases, the product must be labelled on the front of the packaging "formed meat - from combined meat pieces";
- specifically emphasising the absence of certain ingredients and/or nutrients which the food in question does not contain as a matter of course;
- 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;
- using the description 'suitable for persons with special dietary requirements', although the food in question does not comply with Union rules on foods intended for persons with such requirements;
- fr milk: by denoting milk as 'fresh' when its use-by-date is more than seven days after the filling date.

Responsibilities: the person responsible for food information shall be the food business operator who first places a food on the Union market or, where applicable, the food business operator under whose name or business name the food is marketed. To the extent that their activities affect the food information within the business under their control, food business operators shall ensure that the information provided satisfies the requirements of the Regulation.

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;

Parliament adds that the country 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 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 considered 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: Parliament 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, Parliament wants mandatory particulars to be presented in such a way as to ensure clear legibility. Criteria such as font size, font type, contrast between the font and background,

line and character pitch should be considered. In the context of a consultation procedure, the Commission shall draw up by means of delegated acts a binding concept together with the stakeholders concerned, including consumer organisations, specifying guidelines for legibility of consumer information on food.

There are particular provisions for infant fomaulae and baby food.

Specific national provisions may be adopted for such packaging or containers in the case of Member States which have more than one official language.

Abbreviations, including initials, may not be used if they are liable to mislead consumers.

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.

Foods sold in a duty-free zone may be placed on the market presented solely in English.

Omission of certain mandatory particulars: Parliament 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 drinks containing alcohol.

Parliament added enzymes to the list of substances which shall not be regarded as ingredients of a food.

Labelling of certain substances causing allergies or intolerances: the relevant ingredient will always be indicated in the list of ingredients in such a way that the potential for allergy or intolerance is immediately clearly recognisable. an indication will not be 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: Parliament 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

Nutrition labelling: mandatory nutrition declaration must include the amounts of protein, carbohydrates, fibre, natural and **artificial transfats**. The provisions do not apply to beverages containing alcohol. The Commission had only made reference to wines, beers and spirits. 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.

Forms of expression: the "front of pack mandatory nutrition declaration" shall include the amount of energy in kcal and the mandatory nutrients expressed in grams. It shall be presented in a clear format in the following order: energy, fat, saturates, sugars, and salt. The "back of pack mandatory nutrition declaration" shall include the amount of energy in kcal and all the mandatory nutrients referred to in Article 29(1) and where appropriate the voluntary nutrients referred to in Article 29(2). It shall be expressed as appropriate, in the order of presentation provided for in Part C of Annex XIII, both per 100 g /ml and per portion. It shall be presented in tabular form, with the numbers aligned.

If indications pursuant to reference intakes are provided, the following additional information must be indicated in close proximity to the table concerned: 'Average daily requirement of a middle-aged woman. Your personal daily requirement may differ.'

Parliament deleted the provisions regarding expression on a per portion basis.

Additional forms of expression shall not mislead the consumer or divert attention from the mandatory nutrition declaration. They must also be supported by independent consumer research evidence which shows that the average consumer understands the form of expression.

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

Presentation: in addition to the presentation in kilocalories per 100 g/ml and, optionally, per, 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 packaging is exempt from the requirement to repeat the energy content on the front of the packaging.

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

Voluntary food information: Voluntary information shall not be displayed to the detriment of the space available for mandatory information. 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.

Parliament added that 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).

It deleted the clause on alcoholic beverages. Parliament supported an exemption for alcoholic beverages but wants strict labelling for mixed alcoholic drinks or 'alcopops', further suggesting that these should be kept separate from soft drinks where they are sold.

National measures for non-prepacked food: Parliament felt 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 resolution makes several amendments to the Annexes. On vitamins and minerals, it considers 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.