

To: Interested Parties

5 March 2007

Reference: LRM 06/71

Dear Sir/Madam

EU FOOD LABELLING REVIEW

Most recipients will be aware that an EU Food Labelling Review is underway and is now starting to gather momentum. The European Commission has held a couple of preparatory Experts' Group meetings in Brussels. It therefore seems timely to bring you up to date with developments, and to give you some idea of our intended work programme and the way we would like to interact with stakeholders.

The first meeting was held on 13 November. This was essentially a scoping meeting, with the Commission summarising the responses to its public consultation on the Review, and an initial exchange of views. The meeting revealed that most Member States had not developed their thinking much further than their consultation responses. It did, however, provide an opportunity for the UK to hold a separate bilateral with the Commission and share initial thoughts.

The second Experts' Group meeting took place on 15 February and was more substantive. The meeting considered a range of issues that will be used to inform the Commission's thinking on the Review. These issues are summarised below.

Timetable/Form of New Legislation

The Commission is still aiming to adopt a draft proposal by the end of 2007. This is likely to be in the form of a Regulation on Consumer Information that will be subject to Co-Decision procedures i.e. it will require the approval of both Council of Ministers and the European Parliament. It is not clear whether this will include new proposals on nutrition labelling, which are at present being considered in parallel but separate meetings.

Simplification/Structure of Legislation

There was a lot of discussion on this issue, with the Commission concluding that, for legal and practical reasons, simplification of existing measures should be restricted to horizontal texts and should exclude vertical Directives on marketing and compositional standards. The Commission did, however, accept that there was a need to eradicate inconsistencies, and also to ensure that legislative requirements in total were transparent and accessible to users. The new Regulation may therefore



likely be supplemented by an EU Database or similar mechanism. Within this discussion, a Commission representative announced that DG Agriculture had its own work programme involving the simplification of 36 Single Market texts.

Structure of Legislation

There was broad agreement on a UK proposal that the new Regulation should have clearly specified aims and scope, and that it should include a robust basis for the provision of consumer information – in the form of a set of principles against which the need for mandatory information could be assessed. This would also ensure ‘future proofing’. The need for definitions to be reviewed and made consistent with those in other EC texts, e.g. the General Food Law Regulation 178/2002, was also accepted.

Non Pre-packed Food/ Food sold in Catering Establishments

The Commission’s preferred option is to extend current Article 14 requirements. Its idea was to specify what information should be required at Community level, but to leave Member States to decide how this should be provided. There was quite significant support for this approach from some Member States, at least for allergen and durability information. The Commission will reflect, bearing in mind consumer demand and the effect on SMEs, but it seems likely that some changes will be proposed. There was no support from Member States for the introduction of harmonised mandatory provisions in the catering sector.

Clarity

The Commission is particularly concerned about the legibility of labels, on the grounds that mandatory information is often difficult to read because too much space is given to marketing information. A significant number of Member States also raised concerns, although there was no consensus on the way forward. The Commission recognises that this is a complex area but seems minded to pursue the idea of introducing some form of statutory controls.

‘Technical’ Issues

The Commission outlined a number of proposed ‘technical’ amendments to the Food Labelling Directive 2000/13. These were:- (i) The removal of the double declaration of allergens where these were in the ingredients list; (ii) The addition of an indication of whether meat products had previously been frozen or defrosted; (iii) The addition of the alcohol content of ice creams and jams; and (iv) The removal of certain durability mark waivers. There was no substantive discussion of these proposals.

Health Warnings/Ingredient Listing for Alcoholic Drinks

No Member State was in favour of the inclusion of health warnings for alcoholic drinks within the scope of the new Regulation. This issue would now appear to be off the agenda.

Ingredient listing for alcoholic drinks will be discussed at the next meeting. The Commission appears to be considering mandatory ingredient listing for alcoholic drinks above 1.2% ABV, but with a derogation for drinks obtained exclusively from a single base product, to which no other ingredient has been added.

Origin Labelling

The Commission said that it had received a significant number of requests to increase controls, in particular from consumers and public bodies. In the light of this, the Commission would like to explore mandatory origin labelling requirements for all unprocessed food and food processed from a single ingredient. This issue will also be considered at the next meeting.

Distance Selling

Discussion on this issue was inconclusive. The key points were whether additional controls to protect consumers are required at point of sale, and whether these should appropriately be included in the new Regulation. The Commission will investigate further - in conjunction with Legal Services and DG Enterprise.

Impact Assessment

The Commission said that it had commissioned external contractors to prepare Impact Assessments for the different options being considered. Member States and stakeholders would have the opportunity to contribute. The aim is to complete this work by the end of June, after which it will begin work on a substantive draft Proposal.

Next Steps

We will be meeting with a number of stakeholders, including other Government Departments, to help develop our thinking on the issues raised above. We aim to consult publicly in the coming weeks and would welcome your views at that time. We will also be carrying out a separate consultation on a number of national labelling provisions. In the mean time, if you have any particular concerns that you wish to discuss, then please call or drop in for a chat.

Yours sincerely

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Anthony Flower

Head of Food Labelling and Marketing Terms Branch

To: Interested Parties

2 August 2007

Reference: LRM 06/71

Dear Sir/Madam

EU FOOD LABELLING REVIEW

Since my letter of 5 March, the European Commission has held two further meetings of the Experts' Group in Brussels, the last being on 5/6 July. There have also been two Mini Group meetings to look at specific aspects of the Review. I write to bring you up to date with developments.

Timetable/Form of New Legislation

The Commission is still aiming to adopt a draft proposal by the end of 2007 – earlier if possible. This will be in the form of a Regulation on Food Information that will be subject to Co-Decision procedures i.e. it will require the approval of both Council of Ministers and the European Parliament (EP). It is now almost certain that this will include new proposals on nutrition labelling, which are at present being considered in parallel but separate meetings. The Commission's tentative date for adoption by EP and Council remains 2010.

Impact Assessment

An Impact Assessment was recently adopted by the Commission's Board and will form part of the Commission's proposal. It will not be publicly available beforehand.

Structure of Legislation and General Requirements

The majority of Member States have expressed support for the inclusion of Labelling Principles that will govern the provision of mandatory information on pre-packed food. The Commission is considering the precise form these should take, but it seems likely that they will be broadly in line with those endorsed by the Food Standard Agency's Board last February, which are currently subject to public consultation in the UK¹. Member States also agreed that the new Regulation should have a robust framework, with clear aims and objectives that would be able to accommodate future developments in the provision of food information. Definitions will be reviewed, and made consistent with other recent EC texts.

¹ <http://www.food.gov.uk/consultations/ukwideconsults/2007/loosefoodlabelling>

Governance Model

The Commission is considering a new 'Governance' framework that is designed to achieve harmonisation without legislation, for example on Best Practice approaches. The detail of the proposed system is unclear, but it is likely to involve periodic returns from Member States and the use of comitology procedures. On the information available, Member States have generally had reservations about the need for such a system, and have questioned whether the benefits would be outweighed by the administrative burden.

Non Pre-packed Food/Food sold in Catering Establishments

The majority of Member States appear in favour of retaining the status quo, and the Commission now seems minded to propose broad brush mandatory allergen requirements only, with the detailed application left to Member States. A number of Member States have suggested that this could be counter productive, because of the risk of unintentional contamination. There still appears to be no support from Member States for the introduction of harmonised mandatory provisions in the catering sector.

Clarity

Both the Commission and Member States regard the legibility of labels as a critical issue, but are conscious of the need to avoid unnecessary prescription. The Commission is considering a number of options, ranging from specifying a minimum print size and possibly contrast requirements to the use of Best Practice Guidance. A possible compromise may be some prescription plus Guidance but no firm conclusions have been reached.

Ingredient Listing for Alcoholic Drinks

Member States have generally expressed concern that ingredient listing for alcoholic drinks has not been discussed in any detail. The Commission now seems inclined to only propose mandatory ingredient listing for alcoholic drinks above 1.2% ABV where these are mixed with soft drinks, for example Alcopops. A number of Member States reported national ingredient listing requirements already in place for certain alcoholic drinks.

Origin Labelling

Most Member States seem to support a tightening of the rules on the provision of origin information, for example by defining 'Last Substantial Change' and 'Product Of'. Discussions on whether current mandatory commodity requirements should be extended to a wider range of foods have been inconclusive. It is generally accepted that this is a complex issue that needs very careful consideration, not least because of World Trade Organisation implications. It seems unlikely that the Commission will propose wholesale changes.

Distance Selling

This has been discussed only briefly. A minority of Member States are pressing for prescriptive controls. The Commission has accepted that this could be theoretically

justified, but has questioned whether there is a practical need. It is not clear what the Commission is likely to propose.

Next Steps

We are continuing to meet with key stakeholders, including other Government Departments, to help develop our thinking on the issues raised above. We will consult publicly on the Commission's proposal once it is available. Apart from the Labelling Principles, a consultation on National Labelling Provisions is also underway². If you would like to discuss any particular issues on the EU Review or these consultations, then please get in touch.

Yours sincerely

Anthony Flower

Head of Food Labelling and Marketing Terms Branch

² <http://www.food.gov.uk/consultations/ukwideconsults/2007/uklabelling2007>



To: Interested Parties

25 October 2007

Reference: LRM 06/71

Dear Sir/Madam

EU FOOD LABELLING REVIEW

I am writing to update you on developments in Brussels on the EU Review of Food Labelling. Following my letter of 2 August, the European Commission held a further meeting of the Experts' Group on 8 October, which is likely to be the last at Commission level. The key points discussed are summarised below.

Timetable

The Commission expects to start an Inter-Service consultation with other Directorates shortly, with the aim of publishing a draft Food Information Regulation - combining both General and Nutrition Labelling - by 19 December 2007. An Impact Assessment will accompany the proposal.

Structure of Legislation and General Requirements

The Commission has further confirmed that it is proposing to include in the new Regulation a set of key principles to determine mandatory information requirements. These principles are along the lines of those endorsed by the Food Standard Agency's Board earlier this year and the subject of a recent public consultation. This approach was welcomed by Member States. Member States also agreed that the new Regulation should have a robust framework, with clear aims and objectives that would be able to accommodate future developments in the provision of food information. The Commission is seeking to simplify the requirements of the Food Labelling Directive 2000/13 as far as possible.

Definitions

The Commission is proposing an extensive list of definitions to clarify terms used in the text. There was general agreement that maximum use should be made of those definitions already existing in EU legislation.



Non Pre-packed Food/Food sold in Catering Establishments

The Commission is still minded to propose mandatory allergen labelling for all foods sold loose, including restaurants. A number of Member States were concerned that this could be burdensome and also counter productive, because of the risk of unintentional contamination. In addition, there was no demand for such measures from those suffering from food allergies. No Member State voiced support for the Commission's approach.

Clarity/Presentation

There was mixed reaction to the Commission's idea to introduce a minimum print size of 8 point plus contrast requirements for mandatory labelling information – but with certain exemptions. While Member States generally accepted that there was a problem there was no consensus on how to deal with it. The Commission seems inclined to maintain its proposal.

Ingredient Listing for Alcoholic Drinks

The Commission proposed that ingredient listing should be restricted to 'Alcopops' or 'Ready to Drinks' (RTDs), on the basis that soft drinks would normally be subject to ingredient listing. This did not meet with acceptance from Member States, with a significant number speaking in favour of ingredient listing for all alcoholic drinks, on the grounds that such drinks fall within the definition of food and therefore should be subject to the same requirements. Despite this opposition, the Commission seemed inclined to stick with its proposal. The Commission confirmed that the ingredient list would include both the soft and alcoholic drinks elements.

Origin Labelling

The Commission proposed an extension of horizontal controls on the provision of voluntary country of origin information. Thus if producers wished to declare a country of origin, they would have to meet certain requirements, and additionally provide the country of origin of 'significant' or 'characterising' ingredients if these were not from the country of 'Last Substantial Change'. The aim is to address consumer concerns without imposing undue burdens. This approach met with cautious acceptance from Member States, although there were concerns expressed about multi-ingredient products.

Distance Selling

The Commission has proposed that prepacked food offered for sale over the Internet or mail order catalogues should bear the same mandatory information at point of sale. Some Member States felt that requirements for distance food sales via catalogues should not be as stringent as Internet sales, because of the practical difficulties and burdens on small businesses. The overall conclusion was that some flexibility should be allowed for catalogue sales, but not an outright exemption.

Governance

The Commission provided further information on its proposal to include a governance model, which was designed to promote greater harmonisation and co-operation between Member States without the need for legislation. The Commission accepted however that it was necessary to further consider delivery mechanisms to make sure that administrative burdens on Member States were kept to a minimum. Despite this undertaking, the proposed system was not generally well received by Member States and it is evident that more work needs to be done.

Next Steps

We will conduct a public consultation on the Commission's proposal once it is available. In relation to this we are also planning to hold a stakeholder meeting to launch the consultation. A further letter will be sent out shortly with details of this event and how you can register if you wish to attend.

On a more personal note, some of you will be aware that I am moving on to take up fresh challenges and I would like to take this opportunity of introducing my successor as Head of Food Labelling Branch, Stephen Pugh. Stephen is situated in Room 127, Aviation House, and can be reached on extension 8088. I would also like to thank you for the help and support you have given me and to say how much I have enjoyed working with you.

Yours Sincerely

A handwritten signature in black ink that reads "Tony Flower". The signature is written in a cursive, slightly slanted style.

Anthony Flower