

To: Interested Parties

14 May 2009

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**European Commission's Proposal for a Food Information Regulation
Council Working Group meetings – 27 March and 27 April 2009**

Dear Interested Party,

Following my letter of 19 March, the latest meetings of the Council Working Group on the Food Information Proposal took place on 27 March and 27 April 2009. The Czech Presidency continued discussions on the proposal for a Food Information Regulation, covering both general and nutrition labelling aspects.

The main points of discussion were:

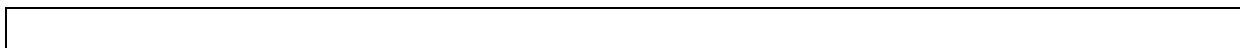
Article 8 – Responsibilities

The Presidency has tabled a proposal, based on comments from the previous meeting. This attempts to clarify the responsibilities of food business operators, those that must ensure the accuracy and compliance of food information (those placing the food on the market – importers/manufacturers), those that modify this information (making sure information is still accurate and safe), and those responsible for removing foodstuffs from the market if they know or presume a food to be non-compliant with food information law.

There were mixed views from Member States and it is clear that many need further clarification on what the Presidencies text actually means in terms of the responsibilities at each stage of the food chain and for individual food business operators.

Article 14 – Clarity

Picking up from earlier discussions, Member States appear to be in support, at least in principle, of a minimum font size (defined as an 'x height' – the height of a lower case 'x'). There has been no discussion on the exemption from the minimum font size for small packages - currently 10cm² under the Commission's proposal. Clearly this will need to be reviewed.



IMPORTANT: to aid our negotiations on this issue I would be grateful if you could take some time to fill in the attached questionnaire (**Annex A**), which includes a number of questions on minimum font size. Any information you provide will inform discussions and help ensure that any minimum font size and exemptions from this are proportionate.

Article 15 – Distance selling

There was little discussion on this issue. The general view was that food sold via distance selling (internet, mail-order etc.) should provide the same level of information as ‘regular’ retail sales.

Article 18 and Annex V – Name of the food

There were calls to remove the compositional criteria for mince meat as laid out in Annex V of the proposal. The Food Information Regulation does not seem to be the appropriate piece of legislation for such requirements, although it is not clear where these rules should be placed.

The Commission was also supportive of tightening rules in the proposal to ensure consumers are not misled when water, salt and other ingredients are added to meat, which for all intents and purposes looks like ‘fresh’ meat.

Article 19 and Annex VI – Ingredient listings

There was little discussion on this article, but there was a consensus view that the adjectives ‘fully’ or ‘partially’, as appropriate, should be declared for hydrogenated fats/oils in the list of ingredients.

Article 20 - Ingredient listings on alcoholic drinks

This article lists foods that are exempt from the provision of ingredient listings. Previously there has been a lot of debate on the temporary exemption for wine, beer and spirits. The majority of Member States support this exemption and have pushed to include a large range of national drinks in this exemption. However, some Member States propose a temporary blanket exemption for all alcoholic drinks above 1.2% alc, to ensure a level playing field, pending the Commission establishing rules for labelling alcoholic drinks within 5 years.

Article 24 and Annex VIII – Net quantity

The Commission presented to the Working Group a paper by the International Organisation of Legal Metrology (OIML)¹ setting an international standard for measuring the net quantity of foodstuffs.

¹ <http://www.oiml.org/publications/R/R087-e04.pdf>

If you have comments on whether this standard should be in some way incorporated into the proposal, please let me know.

Article 25 – Minimum Durability (Best before and Use by)

There is continued debate on this article, principally on how legislation can be clarified to ensure more consistent application of ‘use by’ and ‘best before’ dates. This may lead to either EC or national guidance in this area.

Article 41 – Non-prepacked food

The Presidency tabled a proposal, which allows Member States to adopt national rules in this area, with the exception of allergen labelling that must be provided. Member States were generally supportive, but still had reservations on issues, such as cross-contamination in catering establishments.

IMPORTANT: to aid our negotiations on this issue I would be grateful if you could take some time to fill in the attached questionnaire (**Annex A**), which includes a number of questions on allergen information on non-prepacked foods. Any information you provide will inform discussions and help ensure that any new rules are proportionate.

Nutrition Labelling

There was further discussion on the interplay with Regulation (EC) No 1924/2006 with discussion based around a Presidency proposal for Article 50 and Article 29 (3) to clarify that where a nutrition or health claim is made the mandatory nutrition information must be provided. There was general agreement on the text for Article 50 however Article 29 (3) requires some further consideration.

Also in relation to Article 29 there was a further discussion on the exemptions for nutrition labelling for certain alcoholic drinks. Although a number of suggestions were made for further specific drink to be exempted a number of Member States suggested a more consistent approach similar to that discussed under Article 20 with all drinks over 1.2 % ABV being exempted. In addition there was further support for a proposal that drinks over 1.2% ABV would require only an energy declaration.

The meeting continued discussions on Articles 31 and 33 (forms of expression and expression on a per portion basis) and on Chapter VII (development of National schemes) a number of positions were aired and all the issues will be revisited in future meetings.

European Parliament

As reported in my previous letter the Environment, Public Health and Food Safety Committee, have voted to postpone discussions in Parliament until the next Parliamentary session after the summer elections.

Next Steps

The next meeting will be on the 28 May, at which the UK will present the findings of its independent evaluation of the various front of pack nutrition signposting schemes currently on the market. This will be followed by agreement of the Presidency's progress report which will be sent to the Agricultural Council on 25/26 June. This is the last meeting under the Czech Presidency and the Swedish delegation is expected to outline its timetable under their Presidency, which starts on 1 July 2009.

Yours faithfully

Stephen Pugh
Head of Food Information & Marketing Terms Branch

Proposed EU Food Information Regulation (FIR) – Industry Data Questionnaire

Objective

This information will be used to

- Strengthen the Agency's negotiating position in EU discussions; and
- be used to inform the Agency's Impact Assessment on the proposed EU Food Information Regulation (FIR)

As the EU FIR is being discussed and agreed by Member States issue by issue, the following questions are focused on two key aspects:

- labelling clarity/minimum font size; and
- allergen labelling on loose foods.

We are grateful for any information sent. Please send completed questionnaires to Stephen Knight by **12 June 2009** to:

Labelling Standards & Allergy Division
Food Standards Agency
6th Floor Aviation House
125 Kingsway
London
WC2B 6NH
or email to stephen.knight@foodstandards.gsi.gov.uk

If you have any questions or prefer to have a discussion with the economics team, please contact

Michael.clark@foodstandards.gsi.gov.uk on 0207 276 8180.

Label Clarity/Minimum Font size

The original Commission proposal was for a 3mm font size and exemptions from the minimum font size for small packages with a largest surface area of 10cm².

It would be useful to know what the impact on your business would be if:

- 1.2mm 'x' height was introduced; and
- What would be an appropriate small pack size exemption?

Question	Comments
<p>Scope of proposed regulation</p> <p>1.2mm 'x' height</p> <p>1. How many of your product lines, for which the largest surface area of the packaging has an area of more than 25cm², would need a pack or label change to meet the requirements for mandatory particulars listed in Article 9(1)¹ to be printed in a font size of at least 1.2mm 'x' height?</p> <p>2. How many individual products would this cover and how important are these product lines in terms of sales? Please describe in words if data is unavailable.</p>	

¹ the name of the food; the list of ingredients; allergens; the quantity of certain ingredients or categories of ingredients; the net quantity of the food; the date of minimum durability or the 'use by' date; any special storage conditions or conditions of use; the name or business name and address of the manufacturer or packager, or of a seller established within the Community; the country of origin or place of provenance; instructions for use; alcoholic strength by volume; and nutrition declaration.

3. Are there alternatives? In your view, what would be an appropriate exemption size for small packs if the 1.2mm 'x' height is introduced for the mandatory particulars listed in Article 9(1)? Why?

Should this be based on the largest printable surface area (e.g. 25cm²) or total surface of the packaging (e.g. 125cm²) How many products or % of product lines would be impacted? Please describe.

4. Would the impact be reduced if the small package exemption in Article 17(2) (omission of certain mandatory particulars) is the same as the exemption from minimum font size e.g. 25cm²? If yes, how many products (%) would be affected? Please describe.

3mm font size

5. How many of your product lines, for which the largest surface area of the packaging has an area of **less than 10cm²**, would need to have a pack or label change to meet the requirements for a mandatory particulars listed in Article 9(1) to be printed in a font size of at least 3mm?
6. How many individual products would this cover and how important are these product lines in terms of sales? Please describe in words if data unavailable.

<p>Print contrasts</p> <p>Current FSA guidance² recommends that the contrast of text on background be:</p> <p>Black type on a white background or good tonal contrast of at least 70%</p> <p>7. How many of your products (%) currently fit in with the above recommendation from the FSA labelling guidance?</p> <p>8. Are there alternatives which do not appear in the guidance for making printing clearer? If yes, please describe.</p>	
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² <http://www.food.gov.uk/multimedia/pdfs/clearfoodlabelling.pdf>

Allergen labelling for non pre-packed foods (Loose Foods)

The Commission's original proposal is to extend mandatory allergen labelling from pre-packed foods to apply to food sold loose for direct sale, including catering establishments.

However, the proposal maintains the derogation for Member States to adopt national rules. As a result, the Agency wishes to better understand how businesses currently deal with allergen issues.

<p>Food Businesses supplying direct to consumers or mass caterers</p> <p>9. If you sell non-prepacked food or food prepacked for direct sale (made or packed on the same premise from which it is sold), how do you currently deal with allergens?</p> <p>10. If you do not currently have a process, how much would it cost to provide allergen information to your customers? Please describe.</p> <p>Business to Business Sales</p> <p>11. If you sell pre-packaged foods which are then sold on as loose, how do you ensure that allergen information is passed down the food chain?</p> <p>12. If you do not currently have a process, how much would it cost to provide allergen information to your customers? Please describe.</p>	
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Do you have any more information on any other aspect of the proposed EU Food Information Regulation?

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