



FULL REGULATORY IMPACT ASSESSMENT

Title of Proposal

1.1 Food Standards Agency Guidance on the use of the terms 'vegetarian' and 'vegan' in food labelling.

Purpose and intended effect of measure

(i) Objective

2.1 To improve labelling practice, in catering, manufacturing and the retail sectors in relation to those foods labelled as suitable for vegetarian and vegan diets and to improve consumer confidence in such labelling. This Guidance applies only to food for human consumption.

(ii) Background

2.2 The industry already labels foods as suitable for vegetarians or vegans. However the criteria on which labelling is based tend to vary and consumers' confidence in this type of labelling is low.

2.3 There is at present no definition in law of the terms 'vegetarian' or 'vegan'. The Food Safety Act 1990 (and parallel legislation in Northern Ireland) and the Trade Descriptions Act 1968 contain general provisions outlawing misleading labelling. Claims such as 'suitable for vegetarians' or 'suitable for vegans' are subject to the general controls in sections 14 and 15 of the Food Safety Act 1990 (prohibition on selling food not of the nature, substance or quality demanded and falsely describing or presenting food), and sections 1 to 4 of the Trade Descriptions Act 1968 (prohibition of false or misleading trade descriptions). In addition Article 16 of EC Regulation 178/2002 on general food law also prohibits labelling or other presentation which misleads consumers. This prohibition is enforced by means of the General Food Regulations 2004 and parallel legislation in Northern Ireland.

2.4 The British Nutrition Foundation recommended¹ in 2002 that the Agency should work together with interested parties to develop an agreed list of common definitions for terms such as vegetarian and vegan. The National Consumer Council made a similar recommendation² in 2003 when it was

¹ 'Preparatory Work on Improving Information on Catering Outlets and for Food Sold Loose', British Nutrition Foundation, 2002.

² 'Bamboozled, Baffled and Bombarded', National Consumer Council, 2003.

reported that consumer trust in vegetarian labelling was fragile and that confidence had been undermined by some high profile experiences. At the Food Standards Agency's Food Labelling Forum on 21 January 2004 there were several questions and comments drawing attention to different definitions, and the consequential consumer confusion. At its second Consumer Stakeholder Forum meeting in May 2004, the Agency undertook to hold a stakeholder meeting to discuss these issues.

2.5 A stakeholder meeting was held on 12 October 2004. Stakeholders informed the Food Standards Agency of their views and the rationale for them. (See Annex 1 for the list of invitees and attendees). They recognised the differing definitions of vegetarian in current use and the range of issues such as animal welfare and environmental concerns that can dominate this area. There was widespread agreement amongst stakeholders that the Agency should take steps to improve this type of labelling and there was general recognition that any criteria should be drafted in terms of exclusions, rather than by listing permitted foods.

(iii) Risk assessment

2.6 Surveys in 2003 reported that 6% of UK households have at least one vegetarian member and that 7% of adults polled claimed to be vegetarian. In 2001 the number of vegans in the UK was estimated at between 0.3% and 0.4% of the population. See Annex 2 for further details.

2.7 There are various reasons for people choosing vegetarian or vegan diets. Many prefer not to consume food that results from the slaughter of animals, or from animal products. Others are concerned particularly about ethical methods of farming, transport, and slaughter. An individual's choice to be vegetarian or vegan may be based entirely on religious grounds. Some people are allergic or intolerant to particular animal products. Personal choice may be based on a combination of these factors. The motives for individuals choosing a vegetarian or vegan diet are important, because they determine what particular foods or food ingredients are deemed to be acceptable.

2.8 Food ingredients lists may well not provide sufficient information for the vegetarian or vegan consumer, since the animal origin of some ingredients may not be apparent from their names. For example, some additives may be carried on a gelatine base and therefore not be suitable for inclusion in a vegetarian or vegan diet. This will not be apparent from the ingredients list.

2.9 In catering there is concern that food labelled as vegan or vegetarian may become contaminated during preparation, for example, outlets where deep fried food is cooked in oil that is used for both meat and non-meat products.

2.10 There have been high profile examples of food sold as vegetarian or vegan containing animal products which has dented consumer confidence e.g. a supermarket which sold products containing fish as 'vegetarian'.

2.11 The range of criteria used has also led to lack of clarity and consumer confidence in such labelling.

3. Options

Four options were considered:

- Option 1:** Do nothing
- Option 2:** Collate and publish the various current criteria and policies of food companies and interest groups on vegetarian and vegan labelling
- Option 3:** Develop and Publish Food Standards Agency Guidance
- Option 4:** Introduce legislation

Option 1

Doing nothing would mean that the situation with regard to lack of clarity in vegetarian and vegan labelling would continue. If vegans and vegetarians perceive labelling to be unreliable their choice of foods will be restricted, which may in turn have an effect on the balance of their diets. They might also eat foods that have been prepared with ingredients, additives, flavourings, carriers or processing aids that they wished to avoid.

Option 2

Collating and publishing the current criteria and policies of food companies and interest groups on vegetarian and vegan labelling would provide information to the public. However these policies differ and consumers would have to be aware of those differences when shopping. This option is therefore not likely to improve consumer confidence.

Option 3

This would be helpful to consumers and would provide guidance for industry. It would also provide a standard for local authorities to bear in mind when considering whether enforcement action is appropriate in relation to Food or Trade Descriptions legislation. This is the Food Standard Agency's preferred option.

Option 4

Food labelling legislation is largely harmonised at an EU level. General EU rules already prohibit misleading labelling (Article 2 of Directive 2000/13/EC and Article 16 of EC Regulation 178/2002). There are no specific rules at EU level on vegetarian or vegan labelling, and this subject is not currently under discussion at EU level.

It may be possible for the UK to introduce national measures regarding labelling with the term “vegetarian” or “vegan”, subject the notification and acceptance procedures set out in the Technical Standards Directive 98/34/EC. However, in practice the Government would first wish to see whether voluntary criteria as set out in the proposed guidance was effective in improving labelling and increasing consumer confidence.

4. Costs and benefits

(i) Business sectors affected

4.1 The business sectors affected will be food production, retail and catering where businesses choose to label foods as suitable for vegetarians or vegans. The proposed guidance is not mandatory and if firms chose to follow it they could adjust over a period of time.

4.2 Discussions with trade/retail organisations and the full public consultation indicate that these proposals would have little or no cost. Many retailers, brand owners and manufacturers already use their own definitions, and, if different, they would simply change. There would be some additional work in ensuring that existing products and new products comply, with some reprinting of labels or reformulation if necessary. This is most likely to include checks on additives and processing aids. Information on suitable additives and processing aids can be found on the websites of the Vegetarian and Vegan Societies.

4.3 The catering sector relies on the labelling of foods as supplied. The main costs would be associated with preventing cross contamination in preparation and service. The consultation responses included the opinion from industry that small caterers particularly would face constraints of space and time, and it is also already well known that sometimes they are subject to frequent staff changes. The consultation exercise has indicated that there would be some costs associated with education and training for caterers. .

Costs

4.5 Labelling food as suitable for vegetarian or vegans is entirely voluntary. However it does provide useful information to consumers and Government would not wish to discourage it. Current legislation provides that any labelling, either mandatory or voluntary, must not mislead the consumer. The Guidance sets out advice for the use of the terms of “vegetarian” and “vegan” with which the majority of manufacturers, retailers and caterers appear from discussions to be complying. The costs of Option 3 should therefore be minimal and will, if firms decide to follow the Guidance, mainly be associated with checking and revision if necessary of ingredients, display arrangements and cooking procedures and relabelling in certain circumstances. Option 3 may reduce enforcement costs by improving food labelling practices and providing a common understanding between business and enforcement.

Option 2 would also have minimal costs – these would be associated with the administrative costs of providing relevant details and updating on an ongoing basis. Option 1 would be the status quo. The costs associated with Option 4 are likely to be similar to those for Option 3.

Benefits

4.6 Although it would not be mandatory to follow the proposed Guidance, it would aid industry and enforcement in the interpretation of the legislation on misleading labelling in relation to such claims. The benefits of Option 3 that are foreseen are as follows:

- Social

The main benefit would be social in terms of improved information provision for consumers who would be able to choose products with more confidence. This would not be so for Option 2 or 1. This social impact is unlikely to have significant consequential economic impact. Certain sectors of the population have higher proportions of vegetarian and vegan consumers and will consequently gain greater benefit from these proposals.

- Economic

There are no foreseeable economic effects.

- Environmental

There are no foreseeable environmental effects. Labelling would mainly take place through packaging that is used for most foods already. Information is also provided via menus.

5. Equity and Fairness

5.1 Following the Guidance should not have any disadvantageous effects on the competitiveness of UK businesses with businesses in other Member States or third countries. There is currently no harmonisation on the use of the terms 'vegetarian' and 'vegan', and this would not change.

6. Consultation with small business: the Small Firms' Impact Test

6.1 We have run a small firms focus group to explore their views of the proposals and whether there is any significant impact on them. We have consulted the Small Business Service and some small firms have indicated that there will be no significant impact on small firms, provided that there is a clear message to small firms that (i) the guidance is best practice and not compulsory, and (ii) that those firms that choose to follow the guidance may

do so over a period of time, for example a year or two, to reduce the impact of any relabelling or reformulating that might be necessary.

7. Competition Assessment

7.1 This proposal is expected to have minimal effects on competition in the market affected.

7.2 The market that will be affected by these proposals will be those firms that choose to use the terms 'vegetarian' and 'vegan' in their food labelling. This is a commercial decision and is voluntary. The proposed Guidance is not legally binding.

7.3 In 2004 the meat free market at retail was valued at £626 million. Around 2/3 (67%) was sold as own label products through supermarkets. However there were also several significant own brand labels with the largest having 14% and the next largest 5% of the market share.³

7.4 The most recent assessment of the vegetarian catering sector estimated its value as £ 846 million (1998). The majority of this market consisted of vegetarian options in establishments that also offer options containing meat. The number of catering establishments estimated to be solely offering vegetarian or vegan foods was 450 and this market was valued at £54 million. This sector, offering solely vegetarian or vegan food, was dominated by single outlet, start up ventures which are by definition small businesses.⁴

7.5 Whilst labelling of foods by companies in this market is voluntary, firms, both in manufacturing and catering, who solely produce foods specifically for vegetarian and vegan consumers will wish to differentiate their products by using the terms 'vegetarian' or 'vegan' and this will be an important part of their marketing. In addition the administrative burden of checking ingredients in smaller catering businesses is likely to be more onerous. The guidance is therefore likely to impact on these firms to a greater extent. However the advice represents minimum standards and as such indications are that those firms that specialise in this market will already be adhering fully to the proposed guidance.

7.6 The market structure is not likely to be affected by these proposals and there will not be higher set up or on going costs for new firms. The proposals will not stifle innovation in this area.

7.7 Adhering to the guidance is voluntary and therefore will not stop firms from providing products or services that they would otherwise provide. However there is a risk that more companies may choose not to label food as

³ Meat-free Foods - UK - December 2004 Mintel International Group Limited

⁴ Vegetarian Catering, Leisure intelligence, January 1998 Mintel International Group Limited

suitable for vegetarians or vegans and therefore reduce consumer choice. This is most likely in the catering sector.

7.8 The consultation exercise has not brought to light any firms or types of firm that would be particularly affected regarding competition concerns.

Enforcement and Sanctions

8.1 Legislation, including sanctions, is already in place to protect consumers against misleading labelling. Current enforcement activities involve industry inspections of labels to ensure they are not misleading. The advice set out in the proposed Guidance provide an interpretation of what should be considered as a minimum standard when labelling food as 'suitable for vegetarians' or 'suitable for vegans' (or other similar claims). Indications are that most of the major retailers are already meeting the advice. Therefore it is anticipated that there will be no increased enforcement costs. The Guidance is anticipated to help enforcers improve labelling in this area without resort to legal action and may reduce enforcement costs.

9. Monitoring and Review

9.1 The uptake of the Guidance will be monitored via feedback from stakeholders as part of the on-going policy process. Agency mechanisms for monitoring and review include: open fora; stakeholder meetings; surveys; Consumer Committee; and monitoring general enquiries from the public, industry and enforcement.

9.2 The Food Standards Agency has developed methodology to examine products labelled as vegetarian or vegan for contamination with ingredients of animal origin. These methods may be used to support future surveys.

10. Consultation

10.1 Within Government we have consulted the Better Regulation Team, Small Business Service – Department of Trade and Industry; the Regulatory Reform Team and the Scrutiny Team of the Better Regulation Executive, Cabinet Office; the Food and Drink Industry Division, Department of Environment, Food and Rural Affairs.

10.2 Public Consultation

Views have been expressed by consumer bodies on the need for improved labelling in this area as set out above in paras 2.4 and 2.5. The Food Standard Agency's Stakeholder meeting (see Annex 1) held in October 2004 gave industry, consumer and other interest groups including the UK's Vegetarian and Vegan Societies and representatives of religious groups the opportunity to input their views.

10.3 The full public consultation on the proposed Guidance began on 5 July 2005 and closed 3 months later on 5 October 2005. A summary of the responses is available on the Agency website at www.food.gov.uk/foodindustry/Consultations/completed_consultations/comple teuk/vegveganlabelconsult.

142 Responses were received; broken down as follows:

- | | |
|---|----|
| • Individuals | 86 |
| • Industry | 10 |
| • Consumer Representatives
(including Vegetarian/Vegan and Religious Groups) | 27 |
| • Health | 08 |
| • Enforcement | 08 |
| • Government | 01 |
| • Media | 02 |

10.4 There was overall support for the voluntary guidance, 99%, particularly from the consumer organisations. The Vegetarian Society and a number of its regional groups were supportive along with approximately 95% of the individuals who responded. Whilst welcoming the guidance 11% of the replies received wanted the Agency to go further and to introduce the definitions in to legislation.

10.5 Comments were made in replies to the consultation concerning several issues raised in the draft Guidance including whether eggs should be within the criteria for vegetarian, and cross contamination. Annex 3 contains a Food Standards Agency response to the points made in the consultation exercise.

11. Summary and Recommendation

11.1 Consumers are concerned about the reliability of food labelling in relation to the suitability of the food for vegetarian or vegan diets. Industry are generally in favour of common standards applied to all foods. All stakeholders are agreed that the Government could usefully take action in this area to clarify standards.

11.2 Food Standards Agency Guidance on the use of the terms 'vegetarian' and 'vegan' in food labelling was recommended in the Partial RIA (July 2005). Given the original basis for need for guidance and the support and comments received in the consultation exercise, the draft Guidance has been amended and it is recommended that it is published by the Agency on 6 April 2006 (see attached Guidance document) in line with the Agency's commitment to apply Common Commencement Dates.

11.3 This would provide advice to follow where such labelling is used. Although it is not mandatory to follow the Guidance, it would aid industry and enforcement in the interpretation of the legislation on misleading labelling in relation to such claims.

12. Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

***Signed***

Date

Minister's name, title, department

13. Contact point

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List of Attendees at the Stakeholder Meeting on Vegetarian and Vegan Labelling held on 12 October 2004

Jay Ashra	National Council of Hindu Temples
Konstana Azmi	Vegan Society
Sudershan Bhatia	National Council of Hindu Temples
Tony Bishop-Weston	Foods for Life
Sarah Clancy	Iceland Frozen Foods
Dominic Dyer	Food and Drink Federation
Shirley Labelda	The Jewish Vegetarian Society
Alan Long	VEGA
Nitin Mehta OBE	Indian Vegetarian Society
Mark Moss	Tesco Stores Limited
Liz O'Neill	The Vegetarian Society of the UK Ltd
Chris Olivant	The Vegetarian Society of the UK Ltd
Om Parkash Sharma MBE	Hindu Council of the UK
Jenny Roberts	Iceland Frozen Foods
George Rodger	Vegan Society
Jane Springford	The Vegetarian Society of the UK Ltd
Richard Wood	British Retail Consortium
Alette Addison	Food Standards Agency – Food Labelling
Lorna Chadney	Food Standards Agency – Food Labelling
Christine Green	Food Standards Agency Scotland
Richard Harding (Chair)	Food Standards Agency – Food Labelling
Jane Ince	Food Standards Agency – Food Labelling
Janet McKenzie	Food Standards Agency – Food Labelling
Michelle McQuillan	Food Standards Agency – Standards &
Sustainability	
Rosamund Snow	Food Standards Agency – Communications
Iulia Young	Food Standards Agency – Novel Foods
Shaheen Zar	Food Standards Agency – Diversity T S

The following were invited to attend and sent their apologies:

J Clague (Asda), Sue Davies (Which), Maria Dooley (Tivall), R A Hammons (Somerfield), Jillian Hardwick (Sainsburys), Catherine Humphries (Co-op), Lucy Milleret (Budgen Stores), Mike O'Neil (National Consumer Council) and Peter Wight (M&S).

Everyone invited to attend this meeting was given the opportunity to comment on the draft meeting papers and comments were received from some of those that were unable to attend.

VEGETARIANS AND VEGANS IN THE UK

Food Standards Agency - Consumer Attitudes to Food Standards Survey *September/October 2003*

UK wide survey of 3,121 householders Sept/Oct 2003

6% of households contained at least one vegetarian member,

By age: 16-49 – 7%, 50+ 3%. By class: AB – 9%, C1C2 and DE – 5%

By country: England - 6%, other countries - 3%. Black and minority ethnic groups - 14%, white respondents - 5%.

Fish but not meat – 4%

Vegetarian by area in England: NW - 5%, NE - 4%, Mids – 5%, SW – 9%, SE – 7% Fish but no meat by area in England: NW – 2%, NE – 3%, Mids – 4%, SW – 4%, SE- 6%

Food and Drink Federation *April 2003*

A poll of 1003 adults. 7% of those polled were vegetarian. Two thirds had eaten a meatless meal in 2003.

Food Standards Agency - Consumer Attitudes to Food Standards Survey

August/October 2001

0.4% of the UK population were vegan

Today/ICM Research Poll – Feb 2001

0.3% of the UK population were vegan

RESPONSE ADDRESSING THE POINTS MADE IN THE CONSULTATION ON USE OF THE TERMS VEGETARIAN AND VEGAN IN FOOD LABELLING

	Issues affected	Summary of consultation comments	Food Standards Agency response
Guidance or Legislation	Proposal was for Agency Guidance rather than legislation	99% support for voluntary Guidance. 11% of respondents wanted definitions in legislation.	The Agency considers that Guidance rather than legislation is the best way forward. The Guidance will be reviewed in the same way as other Agency Guidance to see if it is taken up and whether it is effective.
Eggs	Animal welfare. Potential for life. Religious.	Inclusion of eggs within vegetarian criteria was not universally welcomed.	To retain eggs within vegetarian criteria since majority of vegetarians content, and make no recommendation over origin or labelling in terms of production (e.g. free range) as this is an animal welfare issue.
Cross contamination	Ingredients not within criteria making way into foods labelled as suitable.	Draft guidance felt useful but not going far enough, particularly concerned about catering outlets, restaurants and supermarket counters.	To amend guidance such that manufacturers, retailers and caterers should be able to demonstrate that foods presented as vegetarian or vegan have not been contaminated with non-vegetarian or non-vegan foods during storage, preparation, cooking or display.
'From the slaughter of animals'	For vegetarian criteria this phrase does not cover all possibilities.	Felt that animals that died of natural causes, or eaten live such as oysters, or harvested (e.g. shellfish) may not fall within exclusion.	The Agency accepts that it is not acceptable to vegetarians to eat animal products whether the animal was actively slaughtered or not. Vegetarian criteria phrase altered to exclude: 'from animals that have died or have been slaughtered, and animals that die as a result of being eaten'.

Cheese	Cheese may contain rennet from animals or alternatively an enzyme not from animals.	Table attached to the guidance gave the erroneous impression that all cheeses were vegetarian.	The Agency accepts that cheese that is manufactured using rennet derived from animal sources will not be acceptable to vegetarians and will amend the guidance to reflect this.
Allergens and 2% rule	In legislation certain exemptions exist regarding labelling of ingredients.	Sections of the guidance outlining legislation felt not to make it clear what the exemptions are and had been misinterpreted by some respondents.	This section will be redrafted.
Additives, processing aids and flavourings	Detailed information is required to know whether or not these meet criteria.	Some respondents felt that more information should be in the Guidance and lists of those suitable and not suitable should be provided.	The Guidance will be amended to reference the websites (homepages) of the Vegetarian and Vegan Societies where relevant information may be found. The Agency does not have the resource to keep such lists up to date but is discussing with the Vegetarian and Vegan Societies specific areas in their web sites which could be referred to directly in our guidance rather than us giving their generic website reference. This would make it easier for industry and consumers to find their required relevant information.