

***COMMISSION PROPOSAL FOR A REGULATION  
ON FOOD INFORMATION TO CONSUMERS  
COM (2008) 40***

***POSITION PAPER***

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## GENERAL COMMENTS

Labelling and consumer information are issues of utmost interest for the commerce sector: consumers will shop with retailers who provide them with the products and services they want, and product information is an important part of a retailer's marketing strategy to attract and retain the loyalty of customers.

Since the late 70's, consumer demand and marketing practices have continuously changed. There is thus a real necessity for reviewing the current EU food labelling legislation, by meeting consumers' needs for simple, legible and understandable labels and industry's demands for flexible rules that can adapt to the changing market.

The draft Regulation, however, seems to have missed its announced objective of simplifying the complex food labelling legislation. Far from identifying the essential information that should constitute the mandatory food information on the label, the proposal adds a layer of requirements, at the risk that the average consumer gets lost amongst all this information.

EuroCommerce also regrets that the voluntary commitments on nutrition labelling made by its members in the EU Platform on diet, physical activity and health have not been given more time to work before the EU legislates. Businesses have invested a lot of time, efforts and money, and yet, are faced with a prescriptive legislation on nutrition information with no evidence that the new requirements will affect the levels of obesity. This is all the more disappointing given the Better Regulation objectives currently pursued by the Commission.

Finally, while ensuring the smooth functioning of the internal market has always been a main purpose of the European food labelling legislation, EuroCommerce fears that some of the proposed new rules may seriously threaten the Single Market.

## II. MAIN POINTS OF CONCERN

### → Responsibilities - Article 8.4

Responsibilities of retailers have to be made clear. The wording proposed by the Commission leaves room for interpretation. It should be clarified that retailers are only responsible for the labelling particulars of products they import and/or produce under their name, in accordance with article 17 of the General Food Law Regulation (EC) 178/2002.

### → Unpacked foodstuffs - Articles 13.4 and 41

According to the draft Regulation, all the rules contained in the proposal will apply directly to non-prepacked foodstuffs, foods packed on the sales premises at the consumer's request or prepacked for direct sale, unless a Member State decides to exclude some or all of the requirements. Allergens would always need to be mentioned, whatever the Member State decides.

We believe it is **not justified to change the rules for this category of products** as there is **no cross-border activity for non-prepacked food**, hence no single market concern in case of different national rules.

Moreover, provisions for prepacked foodstuffs are **not feasible in practice** for non-prepacked foodstuffs. The variety of product ranges, the manual production and the changing offer of products will make it impossible to follow the same rules, especially for nutrition labelling and allergens and **even more so for SMEs with little staff**.

Therefore, we would suggest going back to the current regime, where Member States need to take proactive steps if they want to make some labelling requirements applicable to non-prepacked foodstuffs.

*Allergens in unpacked foodstuffs:* In many countries, retailers already provide allergen information for unpacked foodstuffs on a voluntary basis. However, EuroCommerce members are of the opinion that it would not be wise to oblige food business operators to give this information *in writing*, as suggested in the Commission proposal. The reasons are manifold:

- The risk of accidental contamination by other allergens is indeed naturally higher in the case of non-prepacked foodstuffs, foods packed on the sales premises at the consumer's request or prepacked for direct sale. A mandatory indication in writing of allergens for those foodstuffs could thus give a **false security to consumers that other allergens are not present**, while they could be by accidental contamination.
- Furthermore, as explained above, the variety of product ranges, the manual production and the changing offer of products will make it very difficult in practice to give reliable allergen information in writing.
- Last but not least, consumers very seldom ask for the allergen information when buying non-prepacked foods or when they go to a restaurant.

On the other hand, EuroCommerce members are in favour of making this information immediately available at the counter, *at consumers' request*, highlighting the risks of contamination at the same time. Modalities for this would best be decided by the Member States.

#### ➔ **Minimum font size - Article 14.1 and 14.4**

EuroCommerce shares the Commission's view that ensuring legibility of labels is central to enable consumers to make informed choices. On the other hand, label clarity depends on a number of elements, including print size, colour, contrast, density etc. **Addressing one element in isolation from the others, the print size only, will not be enough to ensure the hoped legibility.**

The Commission proposes a minimum font size of 3 mm for all mandatory labelling requirements. EuroCommerce members believe that **this provision is not practical**, for the following reasons:



- A minimum font size of 3 mm would prevent multi-lingual labels from continuing to exist. Multi-lingual labels are not only the result of growing intra-community trade, but are also mandatory in some Member States, e.g. Belgium.
- The increase in font size of the mandatory requirements will result in all the information being the same size, hence making other important information for the consumer, such as the product name, to be more difficult to find.
- In practice the size of the label but also the size of packages would increase, going against all the efforts of reducing packaging waste (including current legal obligations to minimise packaging).
- Larger packaging could also encourage larger portion sizes – clearly a matter of serious concern given the objectives of reducing the obesity trend in Europe.
- Finally, the proposed size is bigger than most of the popular newspapers (even the Official Journal is only of 2 mm font size!) and bigger than warnings required for chemical products (1.8 mm).

Instead of tackling only one element of label clarity, EuroCommerce would recommend a more comprehensive approach to clarity through the development of **EU guidelines agreed between interested parties and relevant authorities.**

#### → Nutrition labelling – Articles 28 to 34

GDA's: EuroCommerce members welcome the recognition by the Commission of the Guideline Daily Amounts (GDAs) as a way to inform consumers in a neutral and objective manner and empower them to make healthier choices.

Front-of-pack: **The proposed scheme loses its objective of at-a-glance information**, by imposing too many indications on the front of pack. This will be to the detriment of the consumer, who will not be able to distinguish the nutrition information from other mandatory particulars on the front of pack.

Moreover, EuroCommerce members believe that there is **not yet enough evidence** for the Commission **to impose a mandatory front of pack nutrition labelling**. Instead, we would suggest including **a review clause** to be introduced in the Regulation, by which the need for mandatory front-of-pack information would be re-assessed by a certain date (e.g. 2015).

Nutrients to be given: EuroCommerce members propose to **focus on those nutrients that are of most concern from a public health point of view:** energy, fat, saturates, sugar and salt.

Indication per portion: Relevant stakeholders must be consulted by the Commission when establishing portions at EU level.

Exemptions: We think that the list of products exempted from nutrition labelling should be extended to also cover seasonal and festive products, as well as non pre-packed foodstuffs (see above).

## → National schemes - Articles 44 to 47

We are deeply concerned that the adoption of various national schemes will create barriers to Community trade. The so-called **“voluntary” schemes will de facto become the rule for a market** and operators will need to comply with various systems, thus threatening the single market.

In particular, situations such as Member States discriminating against products labelled according to other Member States’ national schemes must be avoided.

### III. ADDITIONAL POINTS OF CONCERN

#### → Scope and objectives of the proposal – Articles 3.1 and 3.2

The scope is too broad: The reference made to giving food information “*with particular regard to health, economic, environmental, social and ethical considerations*” will open the door to several additional mandatory requirements. This would go against the Better Regulation objective pursued by the Commission, which should be to streamline mandatory requirements and focus on the essentials.

Moreover, food labelling legislation is not the appropriate tool for promoting the production of quality products, which should be left to the market. As stated above, the Commission proposal should limit itself to streamline mandatory requirements and focus on the essentials.

#### → Timely application – Article 3.3

Introduce a uniform compliance date: In order to minimise the economic impact of any labelling changes on food business operators, food labelling rules should be implemented on the basis of uniform compliance dates, for instance on a two-year cycle, which would allow an orderly adjustment of new labelling requirements.

#### → List of mandatory particulars: the lot number - Article 9.1

As the lot number is not included in the list of mandatory requirements of Article 9, a reference to the Lot Marking Directive 89/396 should be made to ensure consistency with the proposed Regulation. The lot number is essential for traceability purposes and thus for recalls or withdrawals to be made in case of necessity.

#### → Origin labelling – Articles 35 and 38.2

EuroCommerce members do not understand the objective of the new rules on the origin of food. The existing legislation already foresees that the origin must be given when the absence of this indication could mislead the consumers as to the true origin of the product. This general principle should be sufficient.



Origin of primary ingredients: Currently, it is common practice for retailers to provide origin labelling on a voluntary basis for a certain number of products. With the proposed new rules, continuing to provide country of origin **will result in an enormous cost increase for industry:**

- Food operators will be pushed to constantly change packaging, which could be nearly impossible if the product contains several characterising ingredients (in particular where seasonal variations occur);
- They will be pushed to restrict the number of countries from which ingredients are sourced.

Moreover, for some products, the primary ingredients may not be available in sufficient quantity to be able to be sourced from only one place.

The likely outcome of introducing such provisions at EU level would be the **removal of the voluntary origin declaration currently given on pack**, to the detriment of consumer information.

National measures on origin: We wonder what the underlying reasons are for providing new criteria to allow Member States to adopt national measures for indications of origin. Knowing that one of the basic principles of the EU is the free movement of goods, the procedure should remain as strict as possible to avoid the increase of derogations and of technical barriers to the free movement of goods. There is already a procedure which foresees the possibility for the Member States to require additional mandatory particulars for specific types of products; this should be sufficient.

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EuroCommerce represents the retail, wholesale and international trade sectors in Europe. Its membership includes commerce federations and companies in 31 European countries. Commerce is the closest link between industry and the 480 million consumers across Europe. It is a dynamic and labour-intensive sector, which plays a significant role in the European economy, generating 13% of the EU's GDP through nearly 6 million companies. 95% of these are small enterprises. Over 30 million Europeans work in commerce and the sector supports millions of dependent jobs throughout the supply chain [www.eurocommerce.be](http://www.eurocommerce.be)