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Dear Colleagues,

UPDATE FROM THE EUROPEAN COMMISSION'S WORKING GROUP MEETING ON NUTRITION LABELLING ISSUES IN THE FOOD INFORMATION REGULATION (FIR), 28 FEBRUARY 2012

The Commission had arranged this working group meeting primarily to discuss issues of interpretation raised by Member States (MS) on various nutrition-related articles of the FIR.

In providing the following summary of discussions, businesses should note that both the European Commission and the UK Departments of Health and Environment, Food and Rural Affairs are developing full guidance on the Regulation. The UK guidance on the whole of the FIR will be issued for consultation in early summer.

Discussions

1. Is the list of "voluntary" nutrients at Article 30(2) a "closed" list, with the consequence that components of those nutrients (e.g. Omega-3) may not be mentioned in the nutrition declaration?

The Commission confirmed that the voluntary list of nutrients that can be declared was closed except when a nutrition or health claim was made. It clarified that where a claim was made in respect of a substance (such as Omega-3) not referred to in Article 30(2) (or in the "mandatory" list of nutrients at Article 30(1)), the amount of that substance must be stated in the same field of vision as the mandatory nutrition labelling.

2. Where appropriate, Article 30(1) permits a statement indicating that salt content is exclusively due to the presence of naturally occurring

sodium. What practical examples are there of cases when such a statement can be used?

The Commission noted that during negotiations on the FIR businesses had raised concerns about labelling milk as containing salt and that there were a number of other foods that contained naturally occurring sodium where this statement could be used.

3. Is it possible to provide nutrition information relating to food as prepared for consumption (as permitted by Article 30(3)) instead of information relating to food as sold, or must this information, if given, be provided in addition to nutrition information relating to food as sold?

The Commission clarified that the law was unchanged in this regard and that either 'as sold' or 'as consumed' labelling was permissible. Were 'as consumed' labelling is provided full manufacturer's cooking instructions must accompany the information.

4. When is it necessary to provide the additional statement *"Reference intake of an average adult (8 400 kJ/2 000 kcal)"* as provided for by Article 32(5)? In other words, if percentage reference intakes are provided both in the table with the mandatory nutrition declaration and as part of the information repeated voluntarily in the principal field of vision, is the additional statement required twice ?

The Commission confirmed that the statement is required wherever percentage reference intake (% GDA) information is given, **but** only if this information is given per 100g or per 100ml. (The statement is **not** required if the percentage reference intake information is given per portion only.)

5. Can the acronym "GDA" (guideline daily amount) be used as a short form for reference intakes for energy and selected nutrients other than vitamins and minerals in the nutrition declaration and in the additional statement (e.g. *"GDA – Reference intake of an average adult (8 400 kJ/2 000 kcal)"*)?

The Commission legal services stated that the term "GDA" could not be included in the statutory reference intake statement but that the FIR did not prohibit its use on food packaging as long as it was not misleading to consumers and the reference intakes used were those set out in the Regulation.

6. What is a "consumption unit"?

The Commission clarified that "consumption unit" is similar to a portion and refers to items such as one slice of bread or one biscuit.

7. When nutrition information is provided per portion or per consumption unit, the number of portions or consumption units contained in the package must be stated on the label (Article 33(1)). When producers pack their products (e.g. sweets) automatically to equal

weight, how should any variation in the number of units be accounted for?

In the case of products packed by weight, it was agreed that a declaration such as *"contains on average x items"* or 'approximately x items' would suffice.

8. What are the Commission's plans for adopting implementing rules on the expression per portion or per consumption unit for specific categories of foods?

The Commission confirmed that portion size was not a priority area for action, but that some industry sectors were interested in beginning such work. The Commission has urged them to involve a wide range of stakeholders in developing appropriate criteria.

9. How should "negligible amounts" (Article 34(5)) be defined?

The Commission proposed that the definitions attached to "x free" claims should suffice as definitions for "negligible" under the FIR. Any need for conditions of use to be attached to these definitions would be kept under review.

10. In the case of labels complying with the requirements of the FIR (Article 34), is it also permitted to include a nutrition declaration in the format required by the US and Canada?

The Commission confirmed that it would **not** be permissible to have US/Canadian nutrition information on the same packaging as this information would be counted as voluntary and therefore must comply with the format in the Regulation. In addition, as different conversion factors are used in the US, the information provided would not tally, and this might confuse consumers.

11. If the mandatory nutrition declaration is provided on a voluntary basis between 13 December 2014 and 12 December 2016, must it comply with Articles 30 to 35 of the FIR?

The Commission confirmed that nutrition declarations voluntarily provided after 13 December 2014 must comply with the FIR (Article 54(2)).

The Commission also clarified that Article 54(3) allowed products on which nutrition or health claims had been made, or to which vitamins or minerals had been added, to be labelled in compliance with either the new format (FIR) or the old format (FLR 1996 in the UK) in advance of 13 December 2014. The Commission noted that the font size requirement (Article 13(2)) did not apply until 13 December 2014, but suggested that pragmatically businesses would not wish to re-label twice in such a short period of time. The Commission also confirmed that either the new (FIR) or old (FLR 1996 in the UK) nutrition declaration needed to be complied with in full; a mix and match approach was not acceptable.

Other issues

The Commission introduced its work programme for the nutrition area, highlighting the mandated **reports on trans fats and alcoholic drinks** as priorities given the timelines set out in the FIR. It would seek data from Member States this year to help inform its report on trans fats.

The Commission also introduced its proposals on **tolerances** and **fibre** (the latter based on CODEX text agreed to date), requesting detailed comments in writing from MS.

Yours sincerely

Alette Addison