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Health and Food Safety Directorate General

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Standing Committee on Plants, Animals, Food and Feed

Section *General Food Law*

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CIRCABC Link: ***https://circabc.europa.eu/w/browse/d48fdfaa-3656-4a00-b566-97c5591701a1***

SUMMARY REPORT

A.01 Supply issues in the EU food sector due to Russia's invasion of Ukraine and related labelling challenges: exchanges of information with Member States.

A Commission representative recalled the interaction the Commission had with Member States in March 2022, starting with a consultation on the potential difficulties encountered by the EU food industry in the supply of certain food commodities and the appropriate approach to address the possible difficulties. This was followed by a Commission letter to the competent authorities of the Member States where the Commission confirmed the possibility of flexibility in the enforcement of EU food labelling rules, if this is temporary, justified and proportionate, and does not jeopardise food safety. The use of stickers on labels was mentioned as a possible compromise.

Several Member States presented the difficulties faced by the food industry in quickly adapting labels to align them with recipe changes due to supply issues.

Member States agreed that information on safety related aspects (in particular allergens) should always be provided on labels. To this end, where it is not possible to change the labels following the use of an alternative ingredient, they allow the use of stickers/inkjet to provide the appropriate information on labels.

For information not related to safety, several approaches have been taken by Member States:

- Some Member States only allow the use of stickers/inkjet to inform consumers of any labelling change.
- Others also accept other means than stickers/inkjet to inform consumers such as via a system of registration or notification to competent authorities. The information is either published on a national website or provided on the shelf. In most cases these means are complemented by national campaigns to further inform consumers.
- Some Member States require the use of stickers to correct certain food claims.

Several Member States called for harmonisation at EU level.

The Commission representative clarified that Regulation (EU) No 1169/2011 on food information (FIC Regulation) to consumers does not provide any mechanism enabling the Commission to adopt derogations from labelling provisions in exceptional circumstances.

Member States were invited to share information and best practices through the dedicated CIRCABC group established in March 2022.

A.02 Update on the state of play of the revision of the Food Information to Consumers' Regulation (EU) No 1169/2011.

A Commission representative provided an update on the state of play of the ongoing work regarding the revision of the FIC Regulation in the area of front-of-pack nutrition labelling / nutrient profiles, origin labelling, date marking and labelling of alcoholic beverages (list of ingredients and nutrition declaration). The following elements were presented:

- key steps towards the Impact Assessment (IA) for the revision of the FIC Regulation and the milestones already reached;
- external study supporting the IA including its methodological aspects;
- stakeholder consultation activities and in particular the open public consultation and targeted surveys;
- overview of the additional scientific input (from EFSA, the JRC and the consumer research study);
- next steps before the adoption of the legislative proposal were presented.

B.01 Exchange of views and possible opinion of the Committee on a draft Commission Regulation (EU) amending Annex III to Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards green tea extract containing (-)-epigallocatechin-3-gallate.

A Commission representative informed Member States about the outcome of the feedback consultation on this draft Commission Regulation. The consultation period ran until 3 November 2021, during which 11 feedbacks were submitted by different stakeholders. The majority of comments received raised concerns on:

- The warning statements, in particular on "*Seek advice from a doctor on the consumption of this product if you experience health problems*",
- The scope of the draft measure, in particular on the food categories exempted from the restrictions of the draft measure,
- The lack of a transition period in the draft measure.

The Commission representative explained how those comments had been taken into account and presented the revised draft measure to Member States.

During the exchange of views, the majority of Member States expressed their support for the revised draft measure. Some Member States requested minor modifications to the conditions of use of the substance, the warning statement "*Should not be consumed if you are already consuming other products containing green tea"* and to recitals 10, 11 and 12 to ensure clarity and coherence, which the Committee agreed to. A few Member States suggested extending the transition period provided for in the revised

draft measure to allow more time for companies to reformulate/relabel their products. It was explained that the industry had had ample time to prepare for the possible risk-management actions as EFSA's conclusions on green tea catechins had been known since 2018, and that any extension of the transition period would therefore not be justified.

The Commission informed the delegations of its intention to obtain the vote on the draft Commission Regulation by written procedure once the inter-service consultation has been finalised on the revised draft.

Outcome of the vote by written consultation: Favourable opinion.

M.01 Request from Portugal to discuss the implications of the CJEU ruling in Case C-533/20 (Upfield Hungary) for the labelling of vitamins in the list of ingredients.

A Commission representative explained that the Court held that where a vitamin has been added to food, the list of ingredients of that food does not have to include, in addition to the name of that vitamin, the name of the formulation used. The Court's ruling does not preclude that the vitamin formulation is also indicated, on a voluntary basis, along with the name, such as vitamin A, in the list of ingredients of fortified foods, as long as the conditions of Article 36 of Regulation (EU) No 1169/2011 are complied with.

It was further noted that the Court ruling does not overrule Article 17(1) of Regulation (EU) No 1169/2011. The Court held that "neither the reference to 'specific name' in Article 18(2) of Regulation (EU) No 1169/2011, nor the references to 'legal name', 'customary name' and 'descriptive name' in Article 17(1) of that regulation make it possible, in themselves and in the absence of additional textual information, to determine the name under which a vitamin which has been added to a food produced or marketed in the European Union must be designated in the list of ingredients relating to that food". (Para 36 of the judgment)

The Court did not discuss in its ruling the indication of novel substances in the list of ingredients. When Union provisions provide for the legal name of a nutrient, then the legal name should be listed in the list of ingredients, in accordance with Articles 18(2) and 17 of Regulation (EU) No 1169/2011. Additional information may be provided on a voluntary basis and in line with Article 36 of Regulation (EU) No 1169/2011.

With regard to food for specific groups, Article 15(3)(b) of Regulation (EU) No 609/2013 provides that the Union list shall contain "the name, the description of the substance and, where appropriate, the specification of its form". Therefore, similarly to fortified foods, the list of ingredients of foods for specific groups does not have to include, in addition to the name of the vitamin, the name of the formulation used, but such information may be provided on a voluntary basis.

M.02 Request from Finland for a brief state of play of the implementation of *Article 36 paragraph 3* of the Food Information to Consumers' Regulation (EU) No 1169/2011.

A Commission representative explained that as the Commission is currently prioritising the food labelling initiatives under the Farm to Fork Strategy, there is no intention at this point to work on the implementation of Article 36 paragraph 3 of Regulation (EU) No 1169/2011.

It was further explained that the Commission is following and collaborating in the developments at Codex level with regard to the information on the possible and unintentional presence in food of substances or products causing allergies or intolerances.