

Consultation Strategy

Impact Assessment on an initiative to limit industrial trans fats intakes in the EU

1. Context and background

Trans fatty acids (also called "trans fats" and abbreviated as TFAs) are a particular type of unsaturated fatty acids that are present in foods and whose consumption increases the risk of Coronary Heart Disease more than any other macronutrient. For this reason, health authorities all over the world recommend to reduce their intake in the diet. Although different Member States took action over the past years and intakes of trans fats in the EU have overall decreased, industrial trans fats are still present at levels of concern in certain foods and intakes are still excessive in certain cases. This lack of homogeneity in the EU hampers the effective functioning of the Internal Market, negatively affects the protection of consumers' health and contributes to the perpetuation of health inequalities.

In this context, the **European Commission is carrying out an Impact Assessment on a possible EU-based initiative to limit industrial trans fats intakes in the diet of EU consumers**. The Inception Impact Assessment on the trans fats initiative (first step in the Impact Assessment process) was published on 11 October 2016 for stakeholders' feedback¹. It included a preliminary reflection on all the key elements of the Impact Assessment: problem description and analysis of compliance with the principles of subsidiarity and proportionality; announcement of the objectives of EU action; listing of the policy options considered² and analysis of their expected impacts. The document also outlined the Commission's preliminary plans for data collection and stakeholders' consultation.

The present Consultation Strategy provides a more detailed outline of the consultation activities planned by the Commission in the context of its trans fats initiative. More specifically, after having described the different consultations already carried out, it (1) sets out the objectives and scope of the different planned consultation activities, (2) maps key stakeholders, (3) describes the planned consultation methods and tools and (4) provides information on the consultation's webpage.

This document has been agreed by the Commission's Inter-Service Steering Group (ISG) supervising the overall Impact Assessment process on the trans fats initiative.

¹ http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_sante_143_trans_fats_en.pdf

² **Option 0 (baseline)**: No EU policy change; **Option 1**: Establishment of a limit for the industrial trans fats content in foods through a voluntary agreement (**Option 1a**) or through a legally-binding measure (**Option 1b**); **Option 2**: Introduction of the obligation to indicate the trans fats content of foods in the nutrition declaration; **Option 3**: Prohibition of the use of partly hydrogenated oils (PHO) in foods through a voluntary agreement (**Option 3a**) or through a legally-binding measure (**Option 3b**)

2. Stakeholders consultation - scope and objective

2.1 Consultation activities already carried out

As explained in the Inception Impact Assessment, the Commission services have already carried out different consultations on trans fats in preparation of the Commission's report of 3 December 2015 *regarding trans fats in foods and in the overall diet of the Union population*³, which constitutes an important data source for the Impact Assessment itself. More specifically:

- Two surveys (one with the Working Group on Regulation (EU) No 1169/2011 on the provision of food information to consumers, comprising experts of Member States, Iceland and Norway, and one with stakeholders in the context of the Advisory Group on the Food Chain and Animal and Plant Health) to collect factual information and stakeholders' views on the following issues:
 - Trans fats in foodstuffs and diets in Europe;
 - Consumer knowledge and understanding of trans fats;
 - Strategies to reduce population exposure to and consumption of trans fats;
 - Impact and effectiveness of such measures.

The feedback gathered through these surveys contributed to constitute the evidence-base for the Commission's report on trans fats and, in turn, will help developing different elements of the Impact Assessment: problem description (i.e. presence of trans fats in foods and in the diet of EU consumers, drivers of the problem), the issue of subsidiarity and the EU dimension to the problem (i.e. existing measures already developed at national level and their impact), possible policy options to address the problem and their expected impacts.

- A written consultation with the Advisory Group on the Food Chain and Animal and Plant Health on four possible options for action:
 - The EU introduces mandatory trans fats content declaration;
 - The EU introduces a legal limit on the trans fats content of food;
 - Voluntary agreements towards reducing trans fats in foods and diets are made at EU level;
 - No further action towards reducing trans fats in foods and diets is taken at EU level.

This consultation allowed to carry out a first test of policy options and their expected impacts that will be further developed in the Impact Assessment. The results of the abovementioned consultations are analysed in detail in the Staff Working Document accompanying the Commission's report⁴.

³ COM (2015) 619 final, http://ec.europa.eu/food/sites/food/files/safety/docs/fs_labelling-nutrition_trans-fats-report_en.pdf

⁴ Commission Staff Working Document SWD (2015) 268, *Results of the Commission's consultations on 'trans fatty acids in foodstuffs in Europe'*, http://ec.europa.eu/food/sites/food/files/safety/docs/fs_labelling-nutrition_trans-fats-oswp_en.pdf

2.2 Objective

Taking into account the consultations already carried out in preparation of the Commission's report on trans fats, the objective of the planned consultations on the trans fats initiative is three-fold:

- to **fill in data/information gaps** with respect to the **specification of the baseline scenario** (no EU action) **and the potential impact of the different policy options** retained in the Impact Assessment (e.g. on food business operators, in particular SMEs and mass caterers providing non pre-packed foods ready for consumption to consumers, or on public administrations, particularly in terms of monitoring and enforcement);
- to **corroborate the findings** on the expected economic, social and environmental impacts of the different policy options on the basis of the input of relevant stakeholders affected by the initiative;
- to **give an additional possibility to all stakeholders and individual citizens** with a possible interest in the initiative to **provide their views on key elements of the Impact Assessment**.

The planned consultations will also allow the Commission to identify whether anything has been left out in its assessment, and, more generally, to foster transparency and accountability and ensure broadest public validation for the EU initiative.

3. Mapping stakeholders

The Inception Impact Assessment already listed the stakeholders expected to have an interest in the trans fats initiative. Below is provided an updated list, which takes account of further reflection on the matter.

- **EU consumers** will be directly affected by the trans fats initiative (in particular at risk groups with reported high trans fats intakes in those Member States where foods containing high levels of industrial trans fats are still on the market) and therefore have a high interest in it: taking into account that consumers' individual participation to the consultations might be limited, it will be important to involve consumers' and health organisations/NGOs in the process.
- **EU food business operators** will also have an interest in the initiative and will be consulted both at individual operator's level (where possible) and at association's level (EU and national). An effort will be made in the consultations to try to obtain specific feedback on the impact of the different policy options on mass caterers providing non pre-packed foods ready for consumption to consumers and SMEs, taking into account the sometimes more limited resources at their disposal. Different types of business are concerned, more specifically:
 - Manufacturers of pre-packed foods placed on the market in the EU or exported outside the EU (e.g. potato crisps, pastries) and mass caterers providing non pre-packed foods ready for consumption to consumers (e.g. fries) which (might) contain industrial trans fats: they will be directly affected and therefore have a high interest in the initiative (different sizes of business: multinational, national, SMEs...);

- Manufacturers of ingredients placed on the market in the EU or exported outside the EU which contain industrial trans fats or are trans fats-free and can, in the latter case, be used as replacement of industrial trans fats-containing ingredients (e.g. frying oils): they will be directly affected and therefore have a high interest in the initiative (mainly large operators);
 - Retailers distributing foods which (might) contain industrial trans fats: they will be indirectly affected and therefore have a moderate interest in the initiative (different sizes of business).
- **Third-country-based food business operators** exporting into the EU will also be directly affected and will have a high interest in the trans fats initiative. Different types of business are concerned, more specifically:
 - Manufacturers of pre-packed food (different sizes of business, including SMEs);
 - Ingredient manufacturers (mainly large operators).
- **Public authorities of EU Member States** will have a high interest in the trans fats initiative, taking into account their experience with national initiatives already developed on trans fats (e.g. ministries of health, or food safety), healthcare costs associated with coronary heart disease (e.g. ministry of health), and enforcement costs related to the verification by inspectors of trans fats presence in foods (national authorities with responsibilities for enforcement tasks).
- **International organisations (e.g. WHO) and associations, academia and think tanks** with expertise in the area of trans fats reduction strategies as well as in environmental issues (taking into account possible replacement of trans fats with palm oil-containing ingredients) will have a moderate to high interest in the topic.
- **Public authorities of third countries** which already took action on trans fats will have a moderate interest but high expertise in the initiative.
- **Individual citizens** might, in certain cases, have a moderate interest in the trans fats initiative, regardless of whether or not they consume foods which (might) contain industrial trans fats.

4. Planned consultation activities and timing

The following consultation activities are foreseen as part of the Consultation Strategy. If a compelling need emerges during the process, the planned activities will be modified as appropriate. Such changes will be announced on the consultation website.

1. Targeted consultations: these will be carried out by the contractor which is preparing the external study to support the Impact Assessment and will include:

- Interviews with national competent authorities in the areas of health and food safety and relevant food business representative organisations. The focus will be on countries (within and outside the EU) that have already engaged in trans fats reduction strategies through different policy options and therefore have relevant experience in the field. The interviews will be aimed at collecting primary data to fill in information gaps with respect to the specification of the baseline and the potential impact of the different

policy options retained in the Impact Assessment. The interviews are scheduled for June-July 2017 and will be carried out in the official language of each country selected or in English.

- Targeted follow-up contacts with sector associations and/or individual businesses in the countries targeted by the abovementioned interviews to gather additional data on key impacts in case some specific information is missing. Getting insights into impacts on SMEs is a key objective of these follow-ups, which will be carried out straight after the interviews under the same language regime.
- An online survey of a variety of stakeholder groups (based on a questionnaire) that will allow the contractor to corroborate its findings on the economic, social and environmental impacts of the different policy options. The questionnaire will be tailored to each consultee group, in order to cover areas falling within the specific expertise/interest of that group. Stakeholders to be consulted will be: consumer and health NGOs; food business operators' representative associations (including associations representing the interests of SMEs and mass caterers); national competent authorities; other organisations with expertise in the area, and academia. As far as industry is concerned, by disseminating the survey widely across associations in different Member States, it will be possible to capture feedback from a range of different types and sizes of business in different Member States. The online survey will be distributed to stakeholders at EU and national level and is expected to be carried out in August-September 2017. It will be provided in English and responses will be accepted in other languages.

2. Open public consultation: this consultation will be open to everyone interested in the topic. It will constitute an additional possibility for all stakeholders and individual citizens with a possible interest in the initiative to provide their views on key elements of the Impact Assessment.

A questionnaire will be prepared building on the progress in the Impact Assessment process and taking into account the feedback collected by the Commission on the Inception Impact Assessment and by the contractor during its targeted consultations. The online questionnaire will be published on the "Your Voice in Europe" website and the consultation will run for 12 weeks. The launch of the consultation (currently planned for October 2017) will be announced in the consultation planning that can be found at:

http://ec.europa.eu/yourvoice/consultations/index_en.htm.

The questionnaire for the open public consultation will be translated in a number of different official languages of the EU and it will be possible to reply in all EU official languages.

5. Website and dissemination

The present Stakeholder Consultation Strategy on the trans fats initiative shall be published on a dedicated page of DG SANTE's website. The webpage will contain the most up-to-date information concerning the different consultation activities on the trans fats initiative, in particular as regards the open public consultation.