

CODEX COMMITTEE ON FOOD LABELLING

European Union Comments on CL 2022/09-FL

Request for information on labelling exemptions in emergencies

Mixed Competence
European Union Vote

The European Union and its Member States (EUMS) would like to thank the United States of America for having prepared the questions in the Appendix to CL-2022/09-FL.

I. TO ADDRESS COVID-RELATED OR OTHER SUPPLY CHAIN DISRUPTIONS, HAS YOUR COUNTRY/REGION OFFERED FLEXIBILITIES (INCLUDING EXEMPTIONS) IN LABELING FOOD PRODUCTS TO MAINTAIN AVAILABILITY TO CONSUMERS? IF SO, WHAT FLEXIBILITIES DID YOU OFFER? IF YOU DID NOT OFFER FLEXIBILITIES, WHY NOT?

During the COVID-19 pandemic, Member States of the European Union reported difficulties in the enforcement of certain labelling provisions of the EU legislation. These difficulties concerned in particular certain provisions of Regulation (EU) No 1169/2011 on the provision of food information to consumers¹.

The outbreak of Covid-19 affected indeed the food industry in terms of supply of certain packaging material, and some raw materials and ingredients for the production of certain foods. The sector had therefore difficulties to comply fully with certain food labelling requirements, in particular those relating with the list of ingredients.

Flexibilities in the enforcement of food labelling provisions were accepted under the condition that they were temporary, justified and proportionate. Any decision on a possible flexibility had to be taken by the Member State authority responsible of the enforcement of the labelling legislation on a case-by-case basis, by using common sense and ensuring that food safety and consumer health were not compromised. In particular, the information on allergens had always to be available on the food product. Authorities informed food business operators about possible flexibilities and organised webinars such as in Sweden. In France, an official website informed consumers about the products for which labelling flexibilities had been accepted.

The use of stickers to update the food information appeared often to be a good compromise. If the use of stickers was not possible, in store consumer information (e.g.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011R1169-20180101&from=EN>

posters, notices on shelves) and information on the producer's/manufacturer's/importer's website could be accepted by the authorities responsible of the enforcement of the labelling legislation, as it was for instance the case in Germany (under the condition of course that food safety and consumer health were not compromised).

II. IN PARTICULAR, WAS THERE A NEED TO REDIRECT FOODS INTENDED FOR CATERING PURPOSES INTO THE RETAIL MARKET? IF SO, HOW WERE DIFFERENCES IN LABELING REQUIREMENTS ACCOMMODATED?

Major labelling issues related specifically to the redirection of foods intended for catering purposes into the retail market were not highlighted by Member States.

Where such problems arose, foods had to be labelled in accordance with the applicable requirements. Relevant information and guidance were offered by the Member State authorities responsible of the enforcement of the labeling legislation.

III. WERE THERE CONCERNS RELATED TO EITHER PUBLIC HEALTH OR TRANSPARENCY WITH PROVIDING FLEXIBILITY REGARDING INGREDIENT SUBSTITUTION? IF YOUR COUNTRY OR REGION DID NOT PROVIDE SUCH FLEXIBILITIES, WHAT GUIDANCE WOULD BE HELPFUL FOR YOU TO MAKE PROVISIONS TO ADDRESS FUTURE SUPPLY CHAIN DISRUPTIONS?

As explained under question 1, any decision on a possible flexibility had to be taken by the Member State authority responsible of the enforcement of the labelling legislation by ensuring that food safety and consumer health were not compromised. In particular, the information on allergens had to be always available on the product.

Concerns were also related to fair consumer information practices², in particular as regards the composition of the food product. Some Member States highlighted also concerns in cases related to the indication of the country of origin or provenance, or where the necessary conditions to bear a claim were not fulfilled anymore due to the change(s) in recipe.

IV. WERE THERE PROVISIONS IN LABELING DEVELOPED TO ENSURE CONSUMERS HAVE THE NEEDED INFORMATION ON A TEMPORARY BASIS? (E.G. STICKERING)

The EUMS did not undertake any legal initiative in order to accommodate applicable labelling provisions.

² In particular Article 7 on fair information practices of Regulation (EU) No 1169/2011 on the provision of food information to consumers specifies that food information shall not be misleading as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production of the food.

As explained under question 1, the approach was to accept flexibilities in the enforcement of food labelling provisions on a case by case basis under the condition that they were temporary, justified and proportionate and that food safety and consumer health were not compromised. The use of stickers to update the food information appeared often to be a good compromise.

V. ARE THERE TECHNOLOGY-BASED APPROACHES TO ENABLE LABELING FLEXIBILITIES WHICH COULD IMPROVE SUPPLY CHAIN RESILIENCE THAT ALSO SUPPORT BOTH TRADE AND CONSUMER TRANSPARENCY DURING EMERGENCIES OR OTHER SUPPLY CHAIN DISRUPTIONS?

The EUMS consider that information required, by a Codex standard or a related text, to appear on a label of a prepackaged food shall not be replaced by food information provided through technology-based means.

Information given to consumers through technology-based means such as QR codes, webpages and apps can complement mandatory food information on the label.

VI. WHICH PROVISIONS OF EXISTING CODEX TEXTS PROVIDE FOR LABELLING FLEXIBILITIES? IF THESE PROVISIONS ARE NOT SUFFICIENT, WHICH PROVISIONS (IF ANY) MIGHT BE AMENDED TO PROVIDE SUCH FLEXIBILITIES

The EUMS do not see any need to amend provisions of Codex texts on food labelling to provide for more flexibility in case of emergencies.