

25 April 2023

CODEX COMMITTEE ON FOOD LABELLING

**(Forty-seventh Session)
Gatineau, Quebec, Canada
15 – 19 May 2023**

**REVISED
European Union Comments on**

Agenda item 7:

**Proposed draft Guidelines on the Use of Technology to provide Food
Information**

(CX/FL 23/47/7 and CL 2023/08-FL)

***Mixed Competence
European Union Vote***

In response to the request for comments, the European Union and its Member States (EUMS) would like to make the following comments.

I. Comments on specific points:

i) Provide comments on whether the proposed definition of “food information” should align with the same term used in the CCFL EWG on e-commerce/internet sales.

The EUMS are of the view that the definition of “food information” should align with the one used in the CCFL EWG on e-commerce/internet sales.

In line with the comments provided in the eWG on e-commerce/internet sales, the EUMS propose to amend the definition of food information as follows:

“Food information” means the information about a prepackaged food that is ~~the subject of a Codex text~~ made available to the final consumer by means of a label, other accompanying material, or any other means including modern technology tools or verbal communication.”

ii) Provide comments on whether sections 4(1) and 4(2) cover the intent of item (a) in Project Document for this work (REP 21/FL, Appendix V) and that the GSLPF would not require revisions.

The EUMS consider that sections 4(1) and 4(2) cover the intent of item (a) in the Project Document, as the points conform to what is provided in the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985). However, instead of repeating provisions that are laid down in the GSLPF, the EUMS propose to include an overarching principle stating that all provisions laid down in the GSLPF shall also apply in the context of the use of Technology in food labelling where appropriate for mandatory and voluntary information.

iii) Provide comments on whether a reference to “purchasers” is needed, or if “consumers” is sufficient.

The EUMS are of the view that a reference to “consumers” is sufficient, as these guidelines and the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985) are meant to cover the information provided by the business to the consumer (B2C).

iv) Provide comments on whether the criteria in Section 5 of the Proposed Draft Guidelines in Appendix II of CX/FL 23/47/7 address items 3 (b)(i) and (ii) of the Project Document for this work.

The EUMS consider that Section 5 does not clearly address items 3(b)(i) and 3(b)(ii) for several reasons. In general, the EUMS consider that the scope of the Draft Guidelines is not yet clear and that it should be clarified whether and which principles apply to mandatory or voluntary food information, or to both. The EUMS are of the opinion that certain principles for the Use of Technology in Food Labelling apply to both type of food information, while others would only apply to mandatory food information. In this regard, the EUMS suggest restructuring Section 4 and 5 to present the principles accordingly.

Regarding the principles below, the EUMS would like to raise the following comments:

- The EUMS consider principle (8) in section 4 to be very prescriptive and wonder if it is even necessary. The EUMS therefore suggest to delete it.
- The EUMS do not agree to list in this draft guidance some circumstances where exemptions regarding the provision of food information may be appropriate (Section 5 principle (3) and (4)).
- The EUMS consider that the principles aim at being general, rather than providing examples.

In the light of the above, the EUMS would like to propose to revise Section 4 and 5 as follows:

“4. General principles for the Use of Technology in Food Labelling

~~Food information that is accessed using technology via a reference on the prepackaged food’s label or labelling should be based on the following principles:~~

~~(1) Food information shall not be described or presented using technology in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.~~

~~(2) Food information shall not be described or presented using technology by words, pictorial or other devices which refer to or are suggestive either directly or indirectly, of any other product with which such food might be confused, or in such a manner as to lead the [purchaser or] consumer to suppose that the food is connected with such other product.~~

~~(3) Food information described or presented using technology shall not conflict with information provided on the label or labelling of the prepackaged food, including when shown in different languages.~~

~~(4) Food Information required to be shown on a label or labelling of a prepackaged food shall not be replaced using technology unless there is certainty that the [purchaser or] consumer can readily access that information. Refer to Section 5 for considerations in determining the appropriate use of technology to provide food information.~~

~~(5) Where food information is provided using technology, the reference on the label or labelling should link directly to this information and the food information should be available for the duration of the food's shelf life.~~

~~(6) Food information described or presented using technology should be readily accessible to [purchasers or] consumers without having to provide or disclose information that is used to identify an individual.~~

~~(7) When the label or labelling of a prepackaged food references food information to be accessed using technology, sufficient information shall be displayed on the technology platform to enable [purchasers or] consumers to ascertain that the food information pertains to that prepackaged food.~~

~~(8) If the purpose of the reference on the label or labelling of the prepackaged food is not self-explanatory to [purchasers or] consumers, it should be accompanied by an explanation of how to use it or the type of food information that will be found when used (e.g. "scan here for more information on ingredients").~~

~~(9) The reference and any explanatory statement shown on the label or labelling that links to food information to be accessed using technology should adhere to sections 8.1.2 and 8.1.3 of the General Standard for the Labelling of Prepackaged Foods (CXS 1-1985).~~

~~(10) Food information described or presented using technology shall be clear, prominent and readily legible to the [purchaser or] consumer under normal settings and conditions of use of the technological platform.~~

~~(11) Food information described or presented using technology shall be shown in a language that is acceptable to the [purchaser or] consumer for whom it is intended.~~

(1) All provisions applying to mandatory and voluntary food information as laid down in the General Standard for the Labelling of Prepackaged Foods (CXS 1-1985) shall also apply in the context of the Use of Technology in food labelling.

- (2) Food information described or presented using technology should be readily accessible to ~~{purchasers or}~~ consumers without having to provide or disclose information that is used to identify an individual.
- (3) Food information described or presented using technology shall be presented in one place, separately from other commercial information intended for sales or marketing purposes.

5. ~~Considerations in determining the appropriate~~ Principles for the Use of Technology to provide mandatory food information

The following factors ~~are for use in~~ shall be followed when considering if mandatory food labelling information can be provided using technology instead of the label or labelling, ~~or if food information that is not required on the label or labelling should be provided using technology:~~

- (1) There should be ~~sufficient~~ appropriate technological infrastructure to support providing food information using that technology within the geographic area or country where the food is sold, such as in regards to prevalence and reliability of service.
- (2) The general population, including vulnerable population, or a sub-set of the population for whom the food information is intended, should have widespread and equal access to the technology in that geographic area or country, and have adopted its use.
- ~~(3) The same level of information as by means of the package or the label shall be ensured.~~
- ~~(4) Evidence of uniform consumer understanding and of the wide use of these means by consumers shall be demonstrated.~~
- ~~[moved here from section 4] (5) Food information required to be shown on a label or labelling of a prepackaged food shall not be replaced using technology unless there is Certainty that the {purchaser or} consumer can readily access that food information using technology shall be demonstrated. Refer to Section 5 for considerations in determining the appropriate use of technology to provide food information.~~
- ~~[moved here from section 4] (6) There shall be a clear reference on the label or labelling that additional information can be found by means of technology. Such ~~Where food information is provided using technology,~~ the reference ~~on the label or labelling~~ should link directly to the this information provided using technology and the food information should be available for ~~the duration of the food's shelf life~~ a reasonable time depending on the food product concerned.~~
- ~~[moved here from section 4] (7) When the label or labelling of a prepackaged food ~~references food information to be accessed using technology,~~ Sufficient information shall be displayed on the technology platform to enable ~~{purchasers or}~~ consumers to ascertain that the food information pertains to that prepackaged food.~~
- (3) This food information concerning ~~shall not relate to~~ health and safety (e.g. ingredients, allergens, expiration dates) ~~should not be provided exclusively using technology if its absence on the label or labelling could cause injury to the health of a consumer.~~
- (4) This food information that is ~~shall not be~~ necessary at the time of sale of the physical product to make an informed purchasing decision ~~should not be provided exclusively using technology. However, food information that would meet the consumer's~~

~~information needs if provided during the use of the product may be eligible to be provided using technology.~~

- ~~(5) This food information that relates to a specific shall not be specific relate to an individual physical product (e.g. lot code, best before date) in a way that should not be provided using technology if doing so its absence on the label would compromise the ability to relate the information to the individual product.~~
- ~~(6) In the case of food information that would normally be required on the label if not for certain constraints, such as the size or nature of the package, consideration should be given to the use of technology to provide consumers with access to that information.~~
- ~~(7) In the case of food information that is normally required on the label but for which temporary exemptions have been granted, such as in the case of emergency situations, consideration should be given to the use of technology to provide consumers with access to that information for the duration of the temporary exemption.~~
- ~~(8) In the case of food labelling information that is not accessible under all conditions of sale (such as a vending machine) or by all demographics of consumers (such as those with visual impairments), consideration should be given to the use of technology to facilitate consumer access to that information.”~~

In light of the above comments, the EUMS consider that further discussion on the above mentioned points are needed before advancing to Step 5 for adoption by CAC44.