

15 February 2021

European Union Comments
on
Codex Circular Letter CL 2020/57-FL:
Request for comments/information on innovation – use of technology
in food labelling

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 on each of the questions raised.

Q 1. Do you agree with conclusion 4.1 (a)? If so, there would be no clear need for new work to identify specific labelling information that may be provided using technology at this time (with the possible exception of #4 below). Do you agree that support for conclusion 4.1 (a) would include ensuring that there remains a definition of “label” that is exclusively about a physical product, i.e. a label applied to a container of food? Please provide a rationale.

a) Mandatory information should remain on the physical label of prepackaged foods for consumers at this time, with a key concern being uniform accessibility, particularly for health and safety information. There are very few circumstances where respondents considered that technology should be permitted to replace the physical label at this time. The few examples provided where this may be appropriate included very small packages, certain country-specific labelling information, and business-to-business transactions.

Proposed answer:

The EUMS are of the opinion that mandatory information should remain on the physical label of pre-packaged foods for consumers, the key concern being uniform accessibility, particularly for health and safety information. To that end, the definition of label should remain as it is. The EUMS consider that some work could however be done in order to identify specific labelling information that may be provided using technology (see answer to question 4). In that context the definition of “food information to consumers” could be included (see answer to question 2).

2. Do you agree with conclusion 4.1 (b)? Why or why not? If you agree, how should this be achieved? Do you support defining a new term (e.g. “food information for consumers”) and amending section 3 of the GSLPF to include this term? Do you believe CCFL should consider whether the definition of “labelling” could be adjusted for this purpose? Do you have other suggestions?

The general principles in Section 3 of the GSLPF, indicating that information must not be false, misleading or deceptive, should apply to all information about a prepackaged food, whether provided on the label, in labelling, or through other means such as technology.

The EUMS agree with conclusion 4.1 (b) as these general principles should apply to all foods presented for purchase and consumption.

The EUMS are of the opinion that the notion of "food information to consumers", similar to the approach of Regulation (EU) No 1169/2011 on food information to consumers, should be introduced in the CODEX STAN 1 – 1985 in order to consider the possibility to provide some food information by the use of innovative technologies under certain conditions. However, the EUMS are not in favour of changing the CCFL definition of labelling to include the use of technology/other means, as the term 'labelling' should continue to only refer to the information provided on label or on accompanied material label.

3. Do you agree with conclusion 4.1 (e)? Do you see any additional need for CCFL to address the use of technology in the labelling of non-retail containers of food beyond what is in the existing Draft Guidance for the Labelling of Non-Retail Containers of Food?

e) The current Draft Guidance for the Labelling of Non-Retail Containers of Food already address the use of innovation and technology for those types of foods, in that these guidelines provide specific circumstances under which alternative means (which includes technology) may be used to provide certain types of mandatory labelling information. The Draft Guidance also addresses the presentation of information provided by means other than the label. This text may be a useful reference as the work on the use of technology in food labelling continues.

The EUMS consider that the provisions on the use of technology in the labelling of food would be best placed in the General Standard for the labelling of prepacked foods (CODEX STAN 1 – 1985). The EUMS agree that the Draft Guidance for the Labelling of Non-Retail Containers of Food may be a useful reference to use (i.e. section 6. Mandatory information requirements by means other than label and section 9. Presentation of information of the draft guidance).

If later it is considered that there is a need to add the aspects relevant to information provided by the use of technology to the Guidance on the Labelling of Non-Retail Containers, or elsewhere, the relevant amendments could be introduced in that guidance.

4. With respect to prepackaged food for consumers, the key areas where respondents saw the potential value in the use of technology to provide labelling information were with respect to:

- (i) supplementary or voluntary labelling information (subject to the General Principles in Section 3 of the GSLPF as outlined above);**
- (ii) specific circumstances that may involve exemptions, such as very small packages where a physical label cannot fit all of the mandatory information;**
- (iii) country specific requirements.**

Further, respondents also supported specifying legibility and accessibility requirements related to information provided through technology.

To address this feedback, Canada is seeking input on two possible options:

a. No new work is required at this time. Items 1 and 3 above address the provision of mandatory information through the use of technology. As the main remaining area of support for the use of technology in labelling relates to information that is voluntary and not required under CCFL texts, there is no need to develop additional guidance, other than that proposed in question 2.

b. Given that several respondents supported outlining broad criteria for the use of technology in labelling, CCFL could consider developing guidance with respect to the themes that are summarized in items 1-4 above. Such guidance could outline, for example, principles surrounding types of information that must always be physically present with a prepackaged food at time of sale, exceptional circumstances where exemptions may be appropriate, considerations with respect to the provision of voluntary information through technology, and related legibility and accessibility considerations.

Which of the above two options, (a) or (b), do you support? Do you have another suggestion? Please provide a rationale.

The EUMS support option b. The EUMS support the development of:

- a. *criteria* subject to which certain mandatory food information may be expressed by means other than on the package or on the label. In this context the following aspects need to be taken into account:**
 - information that is necessary at the point of purchase;**
 - information that is necessary at the consumption;**
 - considerations regarding sector specificities;**
- b. *modalities* of application of the criteria in order to express certain mandatory food information by means other than on the package or on the label. It shall be ensured that the modalities also apply to food information provided on voluntary basis.**

The discussion shall also take account of elements such as:

- how misleading presentation can be avoided,
- how standard presentation of the information provided by the means other than on the package or on the label can be ensured in order to avoid confusion of the consumers.

5. Do you support reviewing and amending as necessary any existing texts affected in pursuit of the above?

The EUMS would agree in principle, but consider that such question is premature and should be assessed in light of the outcome of the proposed work.

6. Do you have any other comments on the conclusions in section 4.1, or any other considerations to offer?

In all cases, the concurrent CCFL work on e-commerce/internet sales will be taken into consideration as innovation and technology in food labelling is considered.

The EUMS have no further comment. It considers indeed that the concurrent CCFL work on e-commerce/internet sales has be taken into consideration.