

EUROPEAN UNION COMMENTS ON

Codex Circular Letter CL 2020/54-FL:

Request for information and comments on FOPNL

(Questions to further inform the work of the eWG)

*Mixed Competence
European Union Vote*

The European Union and its Member States (EUMS) would like to thank Costa Rica and New Zealand for the Circular Letter ‘CL 2020/54/OCS-FL’ regarding ‘The Request for information and comments on FOPNL’. The EUMS are pleased to provide information on questions 1 to 5 as well as question 8.

In the Circular Letter, it is explained that the 45th Session of the Committee on Food Labelling (CCFL45) agreed to continue its work on the guidance on front-of-pack nutrition labelling (FOPNL) through an electronic working group (EWG). In view of the postponement of CCFL46 to 2021 due to the COVID19 pandemic, and taking advantage of this additional time, a report has been prepared to update members and observers on which the next round of discussions will be based. A set of questions on key issues in the report have been prepared for inputs; a request is also made to update the stocktake of FOPNL systems with a view to better inform the eWG discussions.

In particular, Member Governments and observers are invited to:

- a) Provide information and update the stocktake on FOPNL systems (Appendix I - question 1); and
- b) provide information and replies to the questions on the scope, definition and other aspects (Appendix I - questions 2 – 8).

A full report of the EWG work to date together with a proposed draft Guideline (for information only) is provided in the Annex to the CL.

Replies from the European Union and its Member States:

Updating the Stocktake of FOPNL Systems

Q1. What are the front-of-pack nutrition labelling systems (FOPNL), used or proposed (under discussion) (voluntary or mandatory), in your country? Please indicate the source (government, industry, other organization) and reference for each case including the actual model or the link to access it.

For each front-of pack nutrition labelling system listed in Question 1:

Q1a. What were the criteria used to define the nutrition labelling on the front of packaging? Please explain your answer.

Q1b. Was any research done in the development of the system? Where this is available, please provide a link to the report.

Q1c. How is the system being or planned to be monitored and/or evaluated? If you have reports or information on the monitoring and evaluation please provide a link to these.

Q1d. Please provide links to any recent (published over the last 4 years) relevant research that would be helpful to the work of the electronic working group.

As input to Q1, the EUMS would like to refer to the following recent documents:

- The European Commission report of 20 May 2020 on front-of-pack nutrition labelling (COM (2020) 207 final) (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2020%3A0207%3AFIN>)
- Joint Research Centre (2020), Front-of-pack nutrition labelling schemes: a comprehensive review (<https://ec.europa.eu/jrc/en/publication/eur-scientific-and-technical-research-reports/front-pack-nutrition-labelling-schemes-comprehensive-review>)

SCOPE

- Section 2.2

2.2 Alcoholic beverages, foods for special dietary uses and foods for special medical purposes as defined in Codex are excluded.

Q2. Do you agree with the majority view of the EWG that alcohol should be excluded from FOPNL? Please provide justification for you position.

The EUMS agree that countries may wish to exclude specific types of food from using FOPNL. However, the EUMS are of the opinion that the guidelines should not recommend exclusions since a potential list of exclusions will, amongst others, depend on existing specific legislation in place. For example, specific rules applies already at Codex level to foods for special dietary uses and many countries have specific legislation in place for these foods. The EUMS are of the opinion that the guidelines on FOPNL should not repeat what is already defined at Codex level and should leave it to the governments to decide about the foods/drinks that may be excluded from using FOPNL.

The EUMS suggest to replace section 2.2. by

Certain foods may be excluded from using FOPNL⁽¹⁾.

⁽¹⁾ Exclusions are foods that are not allowed to use FOPNL.

Q3. Do you agree that the following foods should *not* be excluded from FOPNL?

- *Sports foods;*
- *Foods covered by the Standard for Special Dietary Foods with Low-Sodium Content (CXS 53-1981); and*
- *Foods covered by the Standard for Foods for Special Dietary Use for Persons intolerant to Gluten (CXS 118-1979).*

With reference to the EUMS reply under Q2, the EUMS are of the opinion that the guidelines on FOPNL should leave it to the governments to decide about the foods/drinks that may, or may not, be excluded from using FOPNL.

Indeed, the decision whether or not to exclude the foods mentioned in Question 3 from using FOPNL might depend, amongst others, on the specific FOPNL scheme used and whether or not it is suitable to provide simplified information on the food groups mentioned, on whether or not the foods are usually consumed in a specific country by the general population or not, etc.

The EUMS refer to their suggestion under Q2 to replace section 2.2. by

Certain foods may be excluded from using FOPNL⁽¹⁾.

⁽¹⁾ Exclusions are foods that are not allowed to use FOPNL.

Q4. Following the discussions in the EWG and the mixed views, do you consider food for young children should be excluded from FOPNL?

The EUMS are of the opinion that the guidelines on FOPNL should leave it to the governments to decide about the foods/drinks that may be or may not be excluded from using FOPNL.

Indeed, the decision whether or not to exclude food for young children from using FOPNL might depend, amongst others, on the specific FOPNL scheme used and whether or not it is suitable for specific foods for young children (e.g. adapted or not to the nutritional needs of young children).

The EUMS suggest to replace section 2.2. by

Certain foods may be excluded from using FOPNL⁽¹⁾.

⁽¹⁾ Exclusions are foods that are not allowed to use FOPNL.

- Section 2.3

2.3 Additionally, certain prepackaged foods may be exempted from FOPNL such as:

- foods exempted from bearing a nutrient declaration by the Guidelines on Nutrition Labelling (CXG 2-1985)

Q5. Below are 3 alternatives for section 2.3 which include the positions of the EWG. Please indicate your preferred option and justify your position.

- **Option A:** Retain Section 2.3
- **Option B:** Delete Section 2.3 as this is a repetition of Section 2.1
- **Option C:** Delete Section 2.3 and include the following footnote in Section 2.1:

Guidelines CX2-1985 allow for the exemption of some foods from the mandatory nutrient declaration (e.g. on the basis of nutritional or dietary insignificance or small packaging). Such foods exempted from the mandatory nutrient declaration can therefore not use FOPNL, except if the nutrient declaration is provided on a voluntary basis.

- Other

The EUMS agree that certain foods may be exempted from the mandatory nutrient declaration as outlined in section 3.1.2. of the Guidelines on Nutrition Labelling (e.g. foods with low nutritional significance or foods in small units) and therefore, the EUMS also agree with the fact that these foods can thus not, in line with section 2.1. of the Draft Guidelines, use FOPNL.

As a consequence, in its previous comments related to the guidelines on FOPNL, the EUMS had proposed **Option C**, which is to delete section 2.3 (since it is a repetition of section 2.1.) and to clarify the case of foods exempted from the mandatory nutrient declaration in a footnote:

Footnote 2: As defined in the Guidelines on Nutrition Labelling (CXG 2-1985). Guidelines CXG 2-1985 allow for the exemption of some foods from the mandatory nutrient declaration (e.g. on the basis of nutritional or dietary insignificance or small packaging). Such foods exempted from the mandatory nutrient declaration can therefore not use FOPNL, except if the nutrient declaration is provided on a voluntary basis.

Definition of Front-of-Pack Nutrition Labelling (FOPNL)

3. DEFINITION OF FRONT-OF-PACK NUTRITION LABELLING (FOPNL):

For the purposes of these guidelines:

3.1. Front-of-pack nutrition labelling (FOPNL) is a form of supplementary nutrition information that presents simplified, **[interpretative]** nutrition information on the front-of-pack of pre-packaged foods. It can include symbols/graphics, text or a combination thereof that provide information on the overall nutritional value of the food and/or on nutrients included in the FOPNL at a national level.

3.2. This definition excludes:

- i. Nutrition and health claims.
- ii. The quantitative declaration of ingredients.

Please note that exclusions listed in 3.2 will be further discussed in the EWG.

Q6. Please indicate whether you consider that the drafting of section 3.1 is broad enough to capture a variety of FOPNL systems to allow countries to decide on their own FOPNL systems to address their specific situation.

[Blank]

Q7. Please also provide your view on the word 'interpretative' in Section 3.1.

[Blank]

Other Aspects to Consider in the development of FOPNL Systems

Q8. Do you support the EWG preference to delete section 5 and for the EWG to continue drafting of the guidelines to incorporate relevant aspects from section 5 to section 4? Please justify your answer.

With reference to the European Union comments of December 2019 on the First Discussion Paper on Development of Guidelines on the use of Front-of-pack Nutrition Labelling (FOPNL) and to the European Union comments of April 2020 in response to the Extraordinary consultation on Section 5, the EUMS consider that Section 5 should be deleted and that the most relevant aspect can be incorporated within Section 4:

- In order to be in line with the mandate for the work (Project document for new work on the development of guidance on use of simplified nutrition information on the front of pack agreed at CCFL44), the 'other aspects to consider' should only relate to the development of FOPNL systems and not their implementation.
- The EUMS suggest, where relevant, to add elements related to the development of schemes which are foreseen under 'Additional aspects to consider' directly in the principles themselves. The EUMS are of the opinion that a general principle can easily refer to possibilities to be considered at local level (e.g. "format of the scheme to be informed by (local or global) research") and that such inclusion is not contradictory to the fact that it remains a general principle.
- The EUMS consider that some of the considerations are redundant with provisions included in the previous sections (e.g. foods not intended to have FOPNL, where the label should be displayed, governance to develop the scheme) and can thus be confusing.