



SUMMARY REPORT

EU PLATFORM ON FOOD LOSSES AND FOOD WASTE: SUB-GROUP ON DATE MARKING

DG HEALTH AND FOOD SAFETY (SANTE)

1st meeting

Brussels, LOI 130 Building, 130 Rue de la Loi (Room B)

20 April 2018 – From 10:00 to 16:00

Chair: Sabine Pelsser, *Head of Sector, Food information, Food information and composition, food waste, DG SANTE*

Commission: DG SANTE: Athanasios Raikos, Anne-Laure Gassin, Dora Szentpaly-Kleis, Eleni Zervou.

Member States represented:

BE, CZ, DE, DK, EL, ES, FR, HR, HU, IT, LT, NL, PL, SE, SK and UK

Private sector organisations:

AIBI; BEUC; COGECA; ECSLA; EDA; EUROCOMMERCE; FOODDRINKEUROPE; INDEPENDENT RETAIL EUROPE; OSTFOLD RESEARCH, Nofima and Matvett Consortium.

Observers:

Food and Agriculture Organisation (FAO)

1. WELCOME AND ADOPTION OF THE AGENDA

The Chair introduced herself and welcomed members to the first meeting of the sub-group on date marking of the EU Platform on Food Losses and Food Waste (FLW). The Platform agreed to establish this subgroup at its last meeting on 7 November in order to facilitate a comprehensive and informed debate involving all key players and support establishment of an action plan to promote better use and understanding of date marking, as called for by the Circular Economy Action Plan. The Chair also recalled that the issue of date marking in relation to food waste prevention was a subject of great interest with calls for action at EU level raised in recent years by EU institutions and other actors, notably regarding the need to improve consumer understanding of date marking in relation to food waste generation.

The Chair went through the agenda and proposed a tour de table so that participants could introduce themselves, during which NL and CZ expressed their wish to present a point under agenda item 4 (information sharing on recent date marking activities); UK requested to present ongoing work to elaborate date labelling guidance; FAO announced the presentation of a technical note on its activities in relation to date marking and EUROCOMMERCE asked that the Commission provide an update on the latest developments at CODEX level in relation to date marking. The Chair accepted all proposed interventions and, in relation to CODEX work on date marking, explained that information would be provided by the Commission during its presentation.

2. MANDATE OF THE SUB-GROUP ESTABLISHED UNDER THE EU PLATFORM ON FOOD LOSSES AND FOOD WASTE TO SUPPORT EU ACTION RELATED TO DATE MARKING – PRESENTATION BY THE COMMISSION AND DISCUSSION WITH MEMBERS

The Commission presented the mandate of the sub-group on date marking, highlighting the input received by Platform members on the draft document following its pre-circulation. The mandate was adopted without any further comments from members and the Chair indicated that it would be published on the Commission's website.

3. EU ACTION TO PROMOTE BETTER UNDERSTANDING AND USE OF DATE MARKING – PRESENTATION BY THE COMMISSION AND DISCUSSION WITH MEMBERS

The presentation began with an overview of the state-of-play of EU actions to promote better understanding and use of date marking, emphasizing the main results of the Commission's study on date marking practices and food waste prevention, presented to the Platform at its November meeting and since published on the Commission's website. The Commission then highlighted key considerations for policy action and the guiding principles for possible EU actions to support better use and understanding of date marking.

In reply to a query from FR, the Commission explained that the key considerations for policy action were based on the conclusions of the Commission's study concerning the reduction of avoidable food waste linked to date marking. COGECA highlighted the need to raise consumer awareness on the difference between 'use by' and 'best before' dates and to issue guidelines for operators on how to apply them. SE also referred to the matter, explaining that the translation of the terms in different languages could affect the manner in which they are understood.

Further on, the Commission put forward a series of possible non-regulatory and regulatory actions, outlined hereafter, which were discussed with members.

1. Non-regulatory actions

1.1 Develop guidance on date marking for food business operators and control authorities

Members welcomed the idea of developing scientific and technical guidance on the application of date marking in order to ensure more consistent date marking practices. In terms of content, members suggested that the guidance should clarify the manner in which 'use by' and 'best before' dates are applied (DE, LT, BEUC), introduce common criteria to determine the durability of a product (DE, BEUC) and offer ideas on how to provide storage

advice for consumers (DE). EL suggested applying additional labelling schemes to improve consumer understanding on the difference between the two date marks, while COGECA proposed to evaluate wordings used in different EU languages to indicate the 'best before' dates linked to the product's quality.

On determining the durability of foods, EL highlighted the need to keep in mind the quality and nutritional value of products in case of extending 'best before' dates for certain foods, while DE highlighted that consumers often associate short durability dates with products' freshness. The Commission explained that the future guidance would not offer a definition of 'freshness', but rather help food business operators to achieve greater coherence between marketing communications, choice of date mark and shelf-life. COGECA asked whether the support of EFSA or other EU agencies might help to clearly determine durability for specific product categories, referring to dairy products in particular. The Commission confirmed that EFSA's expertise would be sought, in accordance with the content and objectives of the future guidance.

DK questioned whether it is possible to achieve consistency in date marking practices given that a food may require either a "use by" or "best before" date depending on its composition and how it is produced, type of packaging utilised etc.... The Commission acknowledged that the guidance would not achieve "harmonisation" of date marking practices and that differences within a given product category are likely to continue to exist; however, the aim is that the guidance remove unnecessary inconsistencies in food business operators' practices.

NL referred to a Dutch study indicating that the removal of the "best before" date or its replacement with the terms 'long shelf life' could help consumers discard less food. The Commission indicated that the study's findings had been presented to the Platform at its meeting in November 2017 and were made available on the Commission's website and the Platform's digital network.

PL highlighted the role of the "best before" date as a "quality guarantee" for consumers. The Commission noted the role of 'best before' dates in guaranteeing consumers a certain quality of the product in relation to the price paid, but also in helping consumers to keep track of when the product had been purchased.

UK referred to guidelines produced by WRAP, UK Food Standards Agency and DEFRA on date labelling and announced that sector-specific guidance would be issued in the future. UK also mentioned an experimental in-store study carried out by WRAP focused on educating consumers on storage temperatures.

The Chair thanked all members for their contributions and confirmed that most of the points raised had also been identified by the Commission as issues to be addressed in the future guidance. Based on the discussion, the Chair considered that there was support from the sub-group for elaboration of such EU guidance and called on volunteers to contribute to this work. Several members volunteered to be part of a taskforce to draft the future guidance document, among which: DK, SE, Matvett, EL, IT, FOODDRINKEUROPE. It was decided that other sub-group members (including WRAP unable to attend the meeting) could still express interest in taking part in the exercise by mid-May. In closing the first point, members were kindly asked to provide any relevant guidelines on date marking and/or labelling that they might have which could support the elaboration of EU guidance.

1.2 Promote inter-sectoral cooperation to reduce food waste generation linked to date marking in the food supply chain

AIBI suggested that future guidance on date marking should not promote extension of product shelf-life to the detriment of product quality. The Chair confirmed there was no intention to do so, but rather to improve other aspects such as promoting more consistent storage temperatures throughout the food supply chain and/or encouraging food business operators to assess the possible impact of Minimum Life on Receipt (MLOR) criteria. FR suggested that while packaging plays an important role in safeguarding product quality, its use, for the purpose of product protection needs to be balanced against the necessary reduction of packaging materials as called for by the Circular Economy Action Plan.

In reply to FR's query regarding the type of foods for which extension of product life could be considered, the Commission explained that extending product life to prevent food waste could have relevant impacts for both 'use by' and 'best before' products. IT explained that extension of product life was important both for foods carrying "use by" dates (e.g. meat and fish) and those labelled with "best before". IT favoured extension of product life and better communications on date marking but not the removal of "best before" dates. HU supported the Commission's proposal to issue guidance on date marking, suggesting that, based on its own experience in working with industry, inter-sectoral cooperation could help remove unnecessary buffers in establishing date marks by food business operators.

BEUC expressed concerns about the Ecodesign criteria currently under discussion for refrigerators, for which the organisation submitted [comments](#)¹. BEUC expressed concerns that while innovative multi-compartment fridges might help prevent food waste, they consumed more energy and could be quite complex for consumers to use correctly. BEUC highlighted that generally consumers were not aware of the storage temperatures for different foods and that such innovation would likely have minimum impact in regard to food waste prevention.

Following COGECA's request to clarify what is meant by MLOR, the Commission explained such criteria utilised by retailers to ensure a minimum amount of shelf-life on delivery could in certain instances impact on food waste generation. The UK highlighted the complexity of the issue stating that foods were discarded less when retailers require 80% shelf life of products upon receipt and certain food categories were more likely to be affected by such criteria than others (e.g. bread).

Matvett reported that in-store communications at point of purchase can help consumers in better understand the meaning of date marking. EUROCOMMERCE mentioned retailers' practice of discounting and offering visibility to products towards the end of their 'use by' dates to motivate purchase.

The Chair concluded that the discussion confirmed members' support for pursuing work in this area and indicated that the additional point raised (in-store consumer communication on date marking) could also be further considered by the sub-group in future. The Chair indicated that, in subsequent meetings, the Commission could organise a more structured discussion on the issues identified, for instance, the consistency of storage temperatures in the supply chain which involved many different sectors.

¹ The link to BEUC and ANEC comments on Ecodesign and energy labelling for household refrigerating appliances has been submitted via email after the meeting.

1.3 An Action Plan on communication activities for date marking

Following presentation by the Commission of possible initiatives which could be undertaken at EU level in order to support communications activities of members in relation to date marking, the FAO mentioned the educational materials developed in collaboration with IFWC, which had been presented in a previous Platform meeting and could be recirculated for interested members.

The Commission informed members that consumer campaigns and other consumer-focused intervention strategies to prevent food waste at household level will be discussed in a session dedicated to this theme at the upcoming Platform meeting to be held in Vilnius on 24 May 2018.

In the absence of further comments from members, the Chair asked that comments on this topic be sent to the Commission and, depending on interest of members, further discussion could be organised at a future sub-group meeting.

2. Regulatory actions

2.1 Improve format, presentation and terminology of date marking to better differentiate 'use by' from 'best before' concepts and facilitate consumer understanding

The Commission provided an update on the latest developments at CODEX level and the related on-going work on date marking.

Several members expressed support for carrying out consumer research in the area of date marking to support possible future changes in format and terminology (BEUC, FOODDRINKEUROPE, EUROCOMMERCE, DE and EL). BEUC and EUROCOMMERCE in particular highlighted the need to take into account national differences between Member States, while EL insisted on running pan-European research to ensure comparability of data. The Commission pointed out that future consumer research would have to consider both aspects mentioned.

UK and DK insisted on the requirement to carry out consumer research before operating any changes to the format of date labelling, while COGECA suggested focusing on the consequences that such actions might have on the industry and the feasibility of implementing any future changes.

The Chair explained that it was crucial to carry out consumer research before proposing and implementing any adjustments to existent wordings or symbols related to date marking, indicating a 3 step-approach to be followed in the process: 1) consumer research; 2) carrying out an impact assessment to assess possible options; 3) developing a legislative proposal.

PL referred to industry studies carried out at retail level which indicated certain categories of consumers were more likely to check label information before purchasing a product (e.g. people suffering from allergies, mothers etc.).

NL advised on the importance of carrying out behavioural research as consumer awareness and attitudes do not always correspond to their actions and DK highlighted the inherent

methodological difficulties in carrying out well-structured research to help inform decision making.

In terms of consumer research on modified formats for 'best before' dates for foods with shelf life over 3 months, Matvett suggested changing the format to display only the year for products with shelf life longer than 18 months. The Commission welcomed the proposal which would further be taken into consideration.

LT proposed setting specific rules for the application of 'use by' dates, to which the Commission clarified that such criteria would be part of the future scientific and technical guidance.

EUROCOMMERCE expressed concerns about use of graphical representations that consumers might find misleading (e.g. STOP sign next to a 'use by' date which could be misinterpreted as a warning about consumption of the food itself).

DE further stressed the importance of assessing the actual role of date marking itself in food waste as there are other factors which also impact on consumers' intention to discard foods.

Following discussion, the Chair concluded that there was support from the group for further consideration of the elements which could be included in a consumer research brief related to date marking rules and food waste prevention.

2.2 Extend the list of foods included in Annex X which are not required to bear a 'best before' date

The possible extension of Annex X, i.e. list of foods exempt from the obligation of "best before" labelling, was presented and discussed by members.

The Commission reiterated that it would consider possible changes to date marking rules only in cases where there is clear evidence of their positive impact on food waste prevention. The Commission reminded that the issue of Annex X was also discussed in the past (2013-2014) in the context of the Working Group on Food Information to Consumers and presented some key considerations concerning the role of the "best before" date and the potential impact of extension of Annex X on food waste prevention:

Key considerations:

- foods for which the "best before" date could potentially be removed (e.g. pasta, rice, coffee, tea...) are not major contributors to food waste;
- there are drawbacks in relation to consumer information ("best before" dates inform consumers on product quality/freshness and help them manage food supply at home);
- consumer could be misled (over time products of different quality could potentially be sold at the same price);
- lack of consensus amongst key players as to the impact of removing "best before" date on food waste prevention, based on evidence of consumer behaviour in relation to date marking;

- voluntary labelling of foods with a “best before” date is likely to continue (food business operators can and do still label foods currently exempt from “best before” labelling due to the need to inform consumers about product quality)

The proposal to extend Annex X gathered favourable opinions (NL, AIBI, FR, LT), unfavourable ones (UK, COGECA, BEUC, PL, FOODDRINKEUROPE, IT); while other members declared themselves undecided (HR) or did not express their view in absence of a formal position (EUROCOMMERCE, DE).

NL proposed to extend the list of foods under Annex X for certain products (e.g. pasta, rice) in order to help inform consumers on their long shelf life, while also acknowledging that such foods did not constitute important waste streams. AIBI and LT suggested including a production date, rather than removing the 'best before' date altogether, an idea which was not supported by the Commission as evidence shows that introducing a production date could create further confusion for consumers and contribute to food waste.

UK highlighted that the Dutch study focused on ambient foods, which had a small impact on the food waste generation overall.

In response to FR's inquiry as to why Annex X had been introduced, the Commission explained it had been established in order to help reduce administrative burdens for food business operators, offering them the option not to add a date mark for a limited number of food products (e.g. fresh fruits and vegetables, wine, liquors etc.).

DK stated that it was important to promote correct use of existing terms, in particular the “use by” dates, and not encourage less use of these as such.

In the absence of conclusive evidence to demonstrate the opposite, the Commission expressed reluctance in extending the list of foods to bear an optional durability date, referring to the results of a behavioural study carried out at EXPO Milan 2015 which indicated that consumers were more likely to discard foods in the absence of a 'best before' date. The Commission recalled that the results of the Dutch study (which were presented at the Platform meeting in November 2017) found a reduction in consumers' intention to discard foods when comparing foods bearing no “best before” date with products which were beyond the “best before” date. Similar results were found in an experimental study carried out by the Commission at EXPO Milan 2015; however, this study also showed that – before the end of the “best before” date – presence of a “best before” date helps to prevent food waste (in comparison with products bearing no date or labelled with a production date only).

IT highlighted that consumers should be properly informed about the product and together with BEUC, HR and FOODDRINKEUROPE argued that 'best before' dates ensured a certain quality at the moment of purchase.

COGECA insisted on the need to further inform consumers on date labelling and storage conditions for products, while UK suggested that products stored for long periods of time would end up being discarded due to consumer's lack of intention to consume them, regardless of whether they bear a durability date or not.

HR explained that under the national law, such a measure would hinder VAT reductions for the donation of products close to the 'best before' date.

EUROCOMMERCE welcomed the EU guidelines on food donation and on feed use of food no longer intended for human consumption and requested similar guidance for retailers on handling products past their durability date. The Commission confirmed such advice could be considered in the elaboration of the technical and scientific guidance on date marking but not the actual setting of product life for different categories of products, as suggested by DE, as this is defined by food business operators themselves.

The Chair concluded that there was no clear consensus on the need to extend Annex X and that this topic would be tabled for discussion at a future meeting.

4. INFORMATION SHARING ON RECENT DATE MARKING ACTIVITIES IN MEMBER STATES/ BY SECTORIAL ORGANISATIONS

4.1 PRESENTATION BY UK ON THE WRAP-FSA-DEFRA LABELLING GUIDANCE

UK explained that the previous version of the guidance (2011) had been updated following a public consultation and in accordance with the requirements of the EU Food Information for Consumers Regulation (EU) No 1169/2011. The guidelines offer information on how to distinguish between 'use by' and 'best before' dates; advises on products' storage, temperature control and freezing; on how to set the date mark etc. In finishing the presentation, UK endorsed the study on date marking and food waste carried out by the Commission and the insights it provides regarding date marking practices for specific categories of foods.

In regard to DE's question on the 'snowflake' symbol, UK clarified that the visual representation had been established over time as a way to indicate that the product can be frozen and that this logo was well-recognised today by consumers.

4.2 PRESENTATION BY *OSTFOLD RESEARCH, NOFIMA AND MATVETT CONSORTIUM* OF HIGHLIGHTS AND EXAMPLES REGARDING OPTIMIZATION OF DATE LABELLING AMONG MANUFACTURERS AND FOOD AUTHORITIES IN NORWAY

The presentation started with an overview by Matvett of the main studies carried out in Norway on date marking and food waste; introduced the agreement between authorities and the food supply chain to meet the SDG 12.3 target and detailed some of the initiatives carried out by food business operators (e.g. packaging innovation to prolong shelf life, additional date marking, new opportunities for sales and distribution for food close to expiry date etc.).

Members welcomed the presentation (DE, DK) and requested further information on the use of shelf life indicators and dynamic durability dates. Matvett clarified that shelf life indicators were only employed for certain products, as part of a broader initiative which brings together actors covering the whole food sector to prevent food waste in the food supply chain.

Matvett pointed out there was potential for more products to be labelled with minimum durability (i.e. "best before") dates. In response to BEUC's question about possible safety risks associated with applying "best before" (rather than "use by" dates on some meat products), Matvett replied that these changes were supported by scientific advice from a food risk assessment institute in Norway.

CZ informed subgroup members that under the Czech national law, it was possible to sell food past its minimum durability date while respecting specific criteria. NL referred to similar measures implemented as part of a *Green Deal* between authorities and stakeholders.

In absence of clear consensus emerging on this issue, the Chair indicated that it would be further discussed by the sub-group. Based on contribution of members, she noted that whilst removal of the "best before" dates could be seen as a means of simplifying the date marking system, this date also provided information to consumers on product quality and removal of the date could have negative impact on brand image, supply chain management as well as food redistribution (e.g. determination of VAT for foods close to the "best before" date).

5. A.O.B.

FAO offered information on initiatives taken and materials developed in regard to date marking and food waste prevention and indicated the website where they could be found. FAO also updated members on the on-going work on policy guidelines for recovery and redistribution of safe food for human consumption.

The Chair thanked members for their active participation which contributed to the success of the first meeting of the sub-group on date marking established under the EU Platform on Food Losses and Food Waste. She then outlined the main conclusions of the day's discussion, recalling the proposals which had been agreed on and those which remained for further debate in a future sub-group meeting. In terms of immediate actions to be carried out, the Chair reiterated the call for volunteers to be involved in the drafting of guidance on date labelling and set mid-May as a deadline for members to nominate experts.