



# REPLIES OF THE EUROPEAN COMMISSION

## TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

### **Food labelling in the EU:**

Consumers can get lost in the maze of labels

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

# I. THE COMMISSION REPLIES IN BRIEF

EU law ensures that consumers receive clear food information and empowers them to make informed choices. It guarantees that food information is scientifically substantiated and free from any misleading labels. Consumers can thus trust the information provided on foods across the EU.

The Food Information to Consumers (FIC) Regulation of the European Parliament and the Council<sup>1</sup>, adopted in 2011, lays down the general principles to ensure that food information in relation to the labelling, advertising and presentation of foods is accurate, clear, easy to understand and is not misleading. It is the basis to guarantee a high level of consumer protection in relation to food information, taking into account the differences in the perception of consumers and their information needs.

The Regulation enables consumers to make the choice that best meets their needs. For example, information about certain substances that cause allergies or intolerances, such as nuts or milk, need to be provided both for packaged and non-pre-packed foods. The legislation also requires that certain nutrition information is provided to enable consumers to compare the nutritional value of foods before purchasing. Furthermore, it stipulates when information on the origin of food has to be provided. Consumers purchasing food online are provided with the same mandatory food information before completing their purchase. To ensure legibility, mandatory information must be printed in a minimum font size, while any voluntary information (e.g. slogans or claims) must not be presented in a way that adversely affects the presentation of the mandatory information.

The FIC Regulation clearly specifies that the food business operator under whose name the food is marketed is responsible for the food information and for ensuring compliance with EU law. The Regulation lays out detailed provisions concerning mandatory information but also sets requirements for the provision of voluntary food information. All information, mandatory or voluntary, must be true, accurate and must not be confusing for consumers. It is prohibited to provide food information that misleads consumers, for example, to provide false or incorrect information about a food's composition or to use images or terms that imply that the product would be of higher quality.

National control authorities of the Member States are responsible for enforcing food law. They must monitor and verify that food businesses comply with all requirements of EU food law, including whether the information provided is not misleading and aligns with consumer understanding in their respective Member States. The possible misleading character of a food label will thus be assessed on a case-by-case basis at national level. If the labelling of a food is misleading, competent authorities should take enforcement measures. Consumer organisations, consumers and/or competitors have also the right to file complaints regarding misleading labelling or bring cases to court.

Moreover, the Nutrition and Health Claims Regulation<sup>2</sup> sets out the conditions for food businesses that want to highlight particular beneficial effects of their products in relation to health and nutrition. It ensures that such claims are scientifically substantiated and free from any misleading claims. EU law also frames other voluntary labels, notably the 'EU Geographical indications (EU quality schemes)' and the 'EU organic logo', by setting strict EU conditions.

More specific rules to ensure consumer protection against any misleading claims are forthcoming. A proposal of the Commission for a Directive on environmental claims<sup>3</sup>, currently in the ordinary

<sup>1</sup> [Regulation - 1169/2011 - EN - Food Information to Consumers Regulation - EUR-Lex \(europa.eu\)](#)

<sup>2</sup> [Regulation - 1924/2006 - EN - EUR-Lex \(europa.eu\)](#)

<sup>3</sup> [COM/2023/166 final](#)

legislative procedure with the European Parliament and the Council, should soon complement the consumer protection legal framework to fight greenwashing. The proposal entails amongst others specific requirements to ensure that an assessment underlying an environmental claim or label is robust and scientifically sound while taking a life-cycle perspective.

Food labelling is also regulated at EU level through a set of vertical rules that specify requirements for specific food products, for example, food supplements, foods for infants and young children, or specific agricultural products (e.g. eggs, wine).

The EU legal framework on food information offers a detailed legal landscape to ensure a high level of consumer protection and to enable consumers to make informed choices and safe use of the food they buy, while allowing for the free movement of food within the internal market. Member States are responsible for enforcing EU food law. The Commission assures that the control systems at national level are effective and maintains the Rapid Alert System for Food and Feed online application (iRASFF), where Member States must report food-related risks.

The legal framework continues to evolve (e.g. recent revision of the marketing standards for certain foods) and is fit for the purpose of addressing consumer needs. The Commission is monitoring consumer needs and understanding of labels through studies, surveys and information from key stakeholders, including Member States. Labels to which consumers are exposed are tracked when it is necessary and in particular in the context of evaluations, Commission reports and impact assessments, in line with the Better Regulation principles.

## II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

### 1. The EU legal framework<sup>4</sup>

The FIC and the Claims Regulations empowers the Commission to adopt legal acts. Some of these acts that concern voluntary, non-essential information have not yet been adopted. However, the right of consumers to receive correct information is not jeopardized because the general EU rules require the truthful, clear and understandable character of such information.

The Commission prioritized the adoption of legal acts on essential information related to consumer safety. The Commission updated the list of substances causing allergies or intolerances, as appropriate, to take into account the scientific progress and technical knowledge. Requirements have been added regarding the provision of voluntary information to consumers on the absence or reduced presence of gluten in food<sup>5</sup>. The Commission also updated Annex III to the Regulation to add specific mandatory particulars (including warnings) for the labelling of foods. Following its report of 2015 on trans fats, a Commission regulation was adopted in 2019 setting a maximum limit for trans fats in food<sup>6</sup>.

Already in 2013, the Commission introduced rules on the origin of certain meats<sup>7</sup>. The Commission also published three reports<sup>8</sup> in 2013 and 2015 as required by the FIC Regulation and rules for the indication of the origin of the primary ingredient in foods in 2018<sup>9</sup>.

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<sup>4</sup> Paragraphs 15 to 47 of the ECA report

<sup>5</sup> [Implementing regulation - 828/2014 - EN - EUR-Lex \(europa.eu\)](#)

<sup>6</sup> [Regulation - 2019/649 - EN - EUR-Lex \(europa.eu\)](#)

<sup>7</sup> [Implementing regulation - 1337/2013 - EN - EUR-Lex \(europa.eu\)](#)

On alcoholic beverages, the Commission published in 2017 the report on the labelling of the list of ingredients and the nutrition declaration<sup>10</sup>. It concluded that voluntary initiatives should be allowed before considering a need for a legislative proposal. Following that report, the wine sector called for the Common Market Organisation Regulation to be amended to include this information; in 2021, the amending regulation requiring the ingredient list and nutrition declaration was adopted<sup>11</sup>. The beers and spirits' sectors signed in 2019 two Memoranda of Understanding concerning the list of ingredients and nutrition declaration, which are currently being implemented.

Regarding front-of-pack nutrition labelling, a report as required under the FIC Regulation was adopted by the Commission in 2020<sup>12</sup>. Currently, as allowed by the FIC Regulation, several Member States are recommending voluntary national front-of-pack nutrition labelling schemes.

The FIC Regulation empowers the Commission to adopt uniform Union rules as to the provision of voluntary information to consumers on the unintentional presence of allergens in foods. Nonetheless, food business operators are already responsible to assess the need to provide the precautionary allergen labelling and to ensure that it is not misleading for consumers. The European Commission and the Member States are actively participating in the ongoing work at international level launched by the Codex Committee on Food Labelling for developing a 'General Standard for the Labelling of Pre-packaged Foods and guidance on precautionary allergen labelling'.

The FIC Regulation further empowers the Commission to adopt uniform Union rules related to voluntary information regarding the suitability of a food for vegetarians or vegans. Until the adoption of specific rules, the general rules apply. The use of the term 'vegan' and 'vegetarian' has to be true, clear and cannot mislead consumers. Vegan and vegetarian consumers can also rely on the list of ingredients.

Similar provisions are set related to harmonised rules for voluntary information regarding reference intakes for specific population groups, in addition to the reference intakes already set out in the FIC Regulation for adults (e.g. 800 µg Vitamin A). However, unless Union or national rules establish scientifically based values for other groups, the values for adults have to be used. For the age group of children up to three years, specific reference intakes for labelling purposes have been set.

The FIC Regulation also empowers the Commission to establish rules on legibility. The rules to be established should clarify the meaning of the various elements related to the definition of legibility (e.g. letter spacing, width-height ratio of the letters, surface of the material etc.). Under the current legal framework, clear legibility has to be ensured in all cases and a minimum font size is set for mandatory food information.

As regards the work on health claims under the Regulation on nutrition and health claims made on foods (Claims Regulation), the Commission adopted Regulation (EU) No. 432/2012 establishing a list of permitted health claims<sup>13</sup>. However, the assessment of claims on botanicals was put on hold by the Commission, in agreement with Member States. These claims can still be used under the responsibility of food business operators, provided that they comply with the general principles and conditions of the Claims Regulation, as well as with any applicable national rules.

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<sup>8</sup> COM/2013/0755 final; COM/2015/0205 final; COM/2015/204 final

<sup>9</sup> [Implementing regulation - 2018/775 - EN - EUR-Lex \(europa.eu\)](#)

<sup>10</sup> COM/2017/058 final

<sup>11</sup> [Regulation - 2021/2117 - EN - EUR-Lex \(europa.eu\)](#)

<sup>12</sup> COM/2020/207 final

<sup>13</sup> [Regulation - 432/2012 - EN - EUR-Lex \(europa.eu\)](#)

The Claims Regulation stipulates that the Commission shall establish nutrient profiles to avoid a situation where nutrition or health claims would mask the overall nutritional status of a food. Due to the high controversy and differences in cultural attitudes toward food, nutrient profiles have not yet been set. Currently foods can bear nutrition and/or health claims independently of their content of, for example, fat, saturated fat, sugars or salt, under the condition that they comply with the other legal requirements of the Claims Regulation.

## 2. Information on labels<sup>14</sup>

Labelling schemes provided on a voluntary basis on food packaging are considered as ‘voluntary information’ under Article 36 of the FIC Regulation, which shall not mislead the consumer, not be ambiguous or confusing for the consumer and shall, where appropriate, be based on the relevant scientific data. Furthermore, Article 37 of the FIC Regulation provides that voluntary food information shall not be displayed to the detriment of the space available for mandatory food information. Article 7 of the FIC Regulation on fair information practices provides that food information shall not be misleading, and that it shall be accurate, clear and easy to understand for consumers. The Commission published a Q&A guidance document<sup>15</sup> explaining what constitutes misleading labelling.

Food business operators are responsible for ensuring compliance with EU law. The responsibility for enforcing the Union rules lies with the Member States. Member States have to monitor and verify that the relevant requirements of EU food law are fulfilled by business operators, including on voluntary information (see Article 17 of Regulation 178/2002). It follows that the possible misleading character of a food label will at first be assessed on a case-by-case basis at national level.

“Confusing food information” and “misleading food information” are distinct concepts with different implications. “Confusing food information” refers to food labelling or presentation that may be unclear or ambiguous to the consumer, making it difficult for them to understand. “Misleading food information” refers to food labelling or presentation that is likely to deceive the consumer, either intentionally or unintentionally. This can involve providing false or incorrect information about the food’s characteristics, composition, origin, or effects (e.g. claiming that a product is “sugar-free” when it actually contains sugars).

Therefore, labelling practices could mislead consumers if the information provided is not true and if competent authorities do not take enforcement actions.

The Commission is tracking labels to which consumers are exposed, in particular, in the context of evaluations, Commission reports, impact assessments, etc. in line with the Better Regulation principles. The Commission refers, for example, to its recent report published in July 2024 on sustainability-related (environmental and/or social) labels in the EU food sector<sup>16</sup>.

In addition, the Commission is monitoring and tracking consumers’ needs and understanding of labels as required by the FIC Regulation (Art. 3(4) and 4(2) of the FIC Regulation). We refer, for example, to recent reports regarding consumer understanding of front-of-pack nutrition labelling<sup>17</sup>, origin labelling<sup>18</sup>, digital means of providing food information<sup>19</sup> and date marking<sup>20</sup>.

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<sup>14</sup> Paragraphs 48 to 61 of the ECA report

<sup>15</sup> [Commission notice on questions and answers on the application of Regulation \(EU\) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers \(europa.eu\)](#)

<sup>16</sup> <https://publications.jrc.ec.europa.eu/repository/handle/JRC134427>

<sup>17</sup> <https://publications.jrc.ec.europa.eu/repository/handle/JRC130125>

<sup>18</sup> <https://publications.jrc.ec.europa.eu/repository/handle/JRC126893>

Furthermore, aspects linked to food labelling are regularly discussed in the context of the Member States Working Group on the FIC Regulation or by the Standing Committee on Plants, Animals, Food and Feed (PAFF Standing Committee). Food labelling topics are also regularly discussed with business stakeholders, as well as consumer and health associations, in the context of the SANTE stakeholders Advisory Group, as well as within the Agricultural civil dialogue groups.

Based on the Commission's monitoring in line with the Commission's Better Regulation Guidelines, on the basis of studies, surveys, and information from key stakeholders, including Member States, the Commission considers it is well aware of consumer needs and understanding.

Member States are best suited to organise awareness-raising campaigns specifically dedicated to their consumers taking into account consumer understanding, cultural aspects, etc. The Commission provides support, for instance, for national campaigns to improve understanding of food information.

### **3. Control systems, sanctions and reporting<sup>21</sup>**

As recognised in the report<sup>22</sup>, Member States have implemented their obligations to put in place a robust and coherent control system. It derives from Regulation (EU) 2017/625, in different manners, which correspond to their constitutional and administrative arrangements at national level. While it is for the Commission to verify that those control systems comply with the obligations from the said Regulation, the Commission cannot interfere in the organisational autonomy of Member States. As regards sanctions, the Commission collects information on the situation in Member States, with a view to improving transparency and coherence of national approaches.

As stated in the report<sup>23</sup>, in 2020 the Commission updated the "reporting arrangements" which had been in place since 2006. Commission Implementing Regulation (EU) 2019/723 establishes in its Annex a standard model form for the Member States annual reports for the first time. The Commission and Member States developed guidance to assist Member States in the completion of the annual report (Commission Notice 2021/C 71/01).

Until 2019, the analysis of the information and data (including on controls on food labelling) was very cumbersome and complex, because Member States submitted their annual reports with their own structure and formats (WORD, PDF), and by email. The situation improved with the electronic version of the standard model form (under the name of Annual Reporting on Official Controls (AROC), available in the computerised information management system for official controls (IMSOC).

Given that it is not possible to conduct general audits or specific Commission controls in all Member States, in all control areas and every year, the Member States' annual reports provide a useful source of information that allows monitoring of the implementation of Multi-Annual National Control Plans (MANCPs), notably in all areas covered by the scope of the Official Controls Regulation (see its Article 1(2)).

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<sup>19</sup> <https://publications.jrc.ec.europa.eu/repository/handle/JRC128410>

<sup>20</sup> [Market study on date marking and other information provided on food labels and food waste prevention - Publications Office of the EU \(europa.eu\)](#)

<sup>21</sup> Paragraphs 62 to 86 of the ECA report

<sup>22</sup> Paragraph 66 of the ECA report

<sup>23</sup> Paragraph 79 of the ECA report



It is the Commission's view that the changes introduced after 2019 have significantly reduced the administrative burden on Member States when reporting on official controls for all control areas mentioned in Article 1(2) of the Official Controls Regulation and prevented the continuation of multiple reporting.

The Commission believes furthermore that the annual reports constitute a solid basis for the Commission services to plan, prepare and carry out controls in the Member States.

The standard model form for the annual report provides:

- a tool for Member States to meet their reporting obligation to the public (in a harmonised way across the EU), when they decide to share the annual report to fulfil the provisions of Article 11 of the Official Controls Regulation;
- a harmonised, comparable set of data that can be used for policy, fitness of legislation, trend analysis, risk assessment, risk management; the ECA itself used the data to produce Figure 15 of this Special Report;
- a source of information and data that can be integrated or analysed with the existing data in other elements of IMSOC, such as iRASFF<sup>24</sup> and TRACES-NT<sup>25</sup>, for the purpose of predictive analysis.

Moreover, the Commission confirms that a shorter and more efficient preparation of the Commission annual report on the overall operation of official controls in Member States (as done for the 2020, 2021 and 2022 reports) was possible thanks to the harmonised annual reports.

### III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

#### **Recommendation 1 – Address the gaps in the EU legal framework for food labelling**

**The Commission should**

- (a) urgently address pending action set out in the FIC and Claims regulations, particularly regarding topics for which the expected outcome is the adoption of a legal act (i.e. botanical claims and precautionary allergen labelling);**
- (b) carry out further work to address outstanding issues related to origin labelling and alcoholic beverages.**

**(Target implementation date: 2027)**

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<sup>24</sup> iRASFF is the new online application through which all 32 member countries of the EU's Rapid Alert System for Food and Feed (RASFF) can transmit new notifications about products presenting a risk or provide follow-up to previously transmitted notifications by other members.

<sup>25</sup> TRACES NT is the EU's digital certification and management platform for importation of goods into the EU.

The Commission accepts recommendations 1(a) and 1(b).

## **Recommendation 2 – Step up efforts to analyse labelling practices**

**The Commission should:**

- (a) proactively and regularly analyse labelling practices to which consumers are exposed;**
- (b) together with member states, improve guidance for food companies.**

**(Target implementation date: 2027)**

The Commission accepts recommendations 2(a) and 2(b).

## **Recommendation 3 – Monitor consumer expectations and take action to improve their understanding of food labelling**

**The Commission should:**

- (a) together with member states, systematically monitor consumer needs and their understanding of food labels;**
- (b) support member states in their efforts to improve consumer understanding of food labelling, for example by awareness-raising campaigns or a guide on food labelling for consumers.**

**(Target implementation date: 2027)**

The Commission accepts recommendations 3(a) and 3(b).

## **Recommendation 4 – Strengthen member states' checks on voluntary labels and online retail**

**The Commission should encourage member states to strengthen their checks on voluntary labels and online retail by providing guidance and examples of good practice.**

**(Target implementation date: 2027)**

The Commission accepts recommendation 4.

## **Recommendation 5 – Improve reporting on food labelling**

**The Commission should:**

- (a) improve the consistency of the data reported by member states on controls relevant to food labelling, including by streamlining member states' reporting arrangements;**

**(b) when updating the Rapid Alert System for Food and Feed online application, improve the quality of data and increase information sharing on food labelling issues with the public.**

**(Target implementation date: 2027)**

The Commission accepts recommendations 5(a) and 5(b).