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TECHNICAL REPORT

Assessing the impact of revisions to the EU horizontal food labelling legislation

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Prepared for the European Commission

RAND EUROPE

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Executive Summary

This study assesses the impacts of a proposed revision of horizontal food labelling policy

The European Commission Health and Consumer Protection Directorate General (DG SANCO) commissioned RAND Europe to provide support in performing an Impact Assessment of the policy options for the revision of Community horizontal food labelling legislation, as codified in Directive 2000/13/EC of the European Parliament and the Council, relating to labelling, presenting and advertising of foodstuffs. This study is designed to support DG SANCO in assessing the impacts of a number of policy options in horizontal food labelling legislation identified by DG SANCO. These policy options can be found in Table 0.1 below. This report will serve as an input into DG SANCO's own regulatory impact assessment exercise. The impact assessment conducted by RAND Europe will weigh the costs and benefits of the proposed options for key stakeholders. The central issue in this exercise is to assess how a change in the existing policy will change the costs and benefits to key stakeholders, identified as food producers and retailers, consumers and the Member States.

The horizontal food labelling policy needs to be revised

The desire to revise the horizontal food labelling regulation has been driven by a growing belief that the existing labelling regulation has become more and more complicated and unclear, 'making it more difficult for consumers to find, read and understand information, and leading to greater difficulties in enforcement and control of the labelling provisions'.[1] In addition, labelling has to be seen within the wider strategic goals of the (renewed) Lisbon Agenda[2], which requires the reduction of administrative burdens, particularly for small and medium-sized enterprises (SMEs). In the words of DG SANCO, revised horizontal labelling regulation will:

[1] European Commission, *Fischler and Byrne Final Round Table on Agriculture and Food* (Belgium: European Commission, 2002).

[2] Presidency of the European Council, *Presidency Conclusions Lisbon: European Council 23 and 24 March 2000* (European Council, 2000); European Commission, *Working together for growth and jobs: A new start for the Lisbon strategy* (communication to the Spring European Council Belgium: European Commission, 2005).

- provide consumers with necessary information to enable them to make safe, healthy and sustainable choices
- create a pro-competitive market environment in which dynamic, efficient, innovative operators can make full use of the power of labelling to sell their products
- be consistent, coherent and transparent
- create a common framework and rules in order to eliminate barriers to free circulation of goods.

DG SANCO identified a number of policy options for the revision

Against this background, DG SANCO identified a number of policy issues that should be addressed. These issues and the related policy options were the basis of this impact assessment exercise. These policy options are listed in the following Table 0.1.1.

Table 0.1.1: Policy options

1.	**Structure of legislation**
A)	Bring together into one piece of legislation as many texts (vertical as well as horizontal) as possible in order to facilitate access to the legislation
B)	Recast the horizontal provisions together, which means bringing together all the horizontal texts related to directive 2000/13/EC, leaving the product-specific rules in the vertical texts
C)	The same as B, but putting vertical legislation in an Annex to the recast horizontal text
2.	**Scope of the legislation**
	Unpacked food
A)	Extending to food sold loose the requirement to indicate all the mandatory information that has to be provided on the labels of pre-packaged foods
B)	Keeping the status quo and leaving it to the Member States to decide which pieces of information should be given to the consumer for food sold loose, and how
A)	Deciding at the community level which pieces of information should be available for food sold loose, leaving it to Member States to decide on how it should be provided
	Small packages (article 13.4 D. 2000/13)
A)	Maintain the exemption from the full labelling requirement for small packages
B)	Submit small packages to the same requirements as all other packages
	Distance selling
A)	Clarifying the scope of the labelling legislation to cover food distance selling (selling foodstuffs by Internet or catalogues)
3.	**Mandatory requirements**
A)	Removing the obligation of declaring the same ingredient twice, once on the product description and a second time on the list of ingredients. This refers to the requirements concerning the following ingredients: • caffeine • phenylalanine, when there is already mention of aspartame in the ingredient list • allergens – a lot of stakeholders are in favour of not repeating the allergenic source of an ingredient when the allergen is itself already declared in the ingredient list
B)	Removing some existing derogations concerning the durability date: • soft drinks, fruit juices, fruit nectars and alcoholic beverages in individual containers of more than 5 litres, intended for supply to mass caterers (art. 9.5 fourth indent) 1. pastry cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture (art 9.5 fifth indent). The removal of the exemption for bakers' wares is still considered justified

Table 0.1.1: Policy options

	• individual portions of ice-creams (art.9.5 eleventh indent)
C)	Requiring the following additional information: • the alcoholic strength by volume for foods other than beverages (e.g. ice-creams, jams) where they contain more than 1.2% by volume of alcohol • transfer additives • indication where a meat has previously been frozen
4.	**Legibility of the information**
A)	Maintain current rules: a broad requirement for the label to be legible
B)	Be more prescriptive as to the presentation: B1) Introduce a minimum font/text size for the mandatory information B2) Provide that mandatory requirements should be clearly distinguishable from marketing information B3) Standardise the presentation of the information
5.	**Origin labelling**
A)	Introduce mandatory origin labelling for all foodstuffs
B)	Keep the current rule for general food and adopt a sector-based approach, i.e. leave each sector to decide whether further rules should be decided;
C)	Introduce mandatory origin labelling for all unprocessed food, meaning raw products, even when included in processed food
D)	Keep the present approach: no mandatory origin labelling, and guidance to frame the voluntary use of geographical indications
6.	**Labelling of alcoholic beverages**
A)	Full ingredient listing for all alcoholic beverages
B)	Requiring ingredient listing except for alcoholic beverages that result from the fermentation process of one ingredient, which would in fact exclude a lot of traditional alcoholic beverages and compel those containing additives and flavouring to declare it

The evidence base is weak and needs to be developed

RAND Europe used three basic methodologies to create an appropriate evidence base for the ex ante impact assessment of these policy options.

1. We used a document and literature review to map and categorise the available evidence on the impact of general and nutrition labelling.

On the basis of the review, we identified the main data gaps that the project team faced in this impact assessment. These were then tackled through:

2. an online survey and

3. a small number of key informant interviews.

Despite these efforts to generate additional evidence, the analysis of the specific policy options has been aggravated by the lack of good consumer data and more specific cost data.

Three main stakeholder groups are affected by a policy change

The stakeholder analysis identified three main stakeholders affected by changes in the regulation:

- the food industry
- consumers

- Member States.

The **food production and food retail sectors** are characterised by a predominance of small enterprises; however, a small number of large companies account for a large part of the turnover. Key policy positions of the European food and food retail industry are that:

- industry prefers a mix of core mandatory information and options around voluntary information provision
- industry considers country of origin labelling as too complex to be extended and doubts the value of the claims that can be made on processed foods
- industry prefers European regulation over national regulation.

Consumers, as a stakeholder group, show many differences in how they check for and use food information across Europe. However, consumers show distinct commonalities in the type of information provision they would like to see. Consumers are mostly interested in clear, understandable, simple, comprehensive, actionable, standardised and authoritative information. Consumers also show a strong preference for country of origin labelling. Some Consumer organisations have concerns about the inability of the European Commission to enforce changes.

Finally, **Member States'** capacity to act and the effectiveness of the implementation of labelling legislation depends on the design of the labelling regulation. In terms of governance, there is a trade-off for the Member States between the desire for flexible solutions to labelling including the use of national transposition on the one side and the requirements of the single market and the desire in industry for a unified regulatory framework on the other side. Most Member States prefer to maintain the current mandatory labelling requirements and eventually introduce legislation on the legibility of labels.

The costs of food labelling legislation to producers are small, but can increase considerably for specific labelling requirements

Food producers and food retailers bear most of the costs of changes in labelling regulation as long as they are not able to pass on the costs to consumers. However, the cost of food labelling regulation, defined as the additional costs of including the legislative requirements, might be marginal or even zero in some cases.

While there have been attempts in the US to develop a comprehensive cost model which quantifies the cost effects of food labelling changes, such a tool is missing in the European context. Although we can fairly comfortably describe the cost mechanisms for food-producing companies, we cannot, however, quantify the effects of each option. A number of general factors are likely to increase or decrease the cost of food labelling across the different policy options.

- Information costs related to the understanding of the current legislation depend on the accessibility, understandability, consistency and clarity of the regulation.
- Information costs related to the collection of the necessary information to put on the label increase with the amount of information to be labelled, the difficulty of acquiring the information, and the frequency of updates.

- Design costs of the label increase with the extent of the label overhaul, and the complexity (colours) of the label.
- Printing costs depend on the numbers of colours used and the necessary adaptations to hardware (printing plates/upgrade of machines).
- The stock of printed labels to be written off increases/decreases the one-off costs of changes.
- Different label types bear different changing costs: adhesive labels and displays at the point of sale are cheaper to change than labels printed on pack.
- Labelling changes due to regulatory changes can be implemented more cheaply, or even at no additional cost, when they are implemented in parallel with changes within the normal labelling cycle of the company.
- Labelling changes might lead to a substantial increase in costs, if they require an increase in the number of stock keeping units (SKUs) a company produces.
- Space limitations can lead to an increase in costs for producing a label, by increasing the package size or the number of necessary SKUs.

SMEs are likely to face relatively higher costs due to labelling changes. In general, SMEs command fewer resources and cannot realise economies of scale in reacting to changes in labelling regulation compared to large companies. These resources might be needed to acquire information on the regulation and to comply with regulation by overhauling labels, but also to reposition and re-brand products affected by changes in consumer demands as a result of information disclosure.[3] Overall, labelling requirements might lead to higher-per-unit costs for SMEs, thus reducing their competitiveness.[4]

Key findings for the policy options

The cost–consequence analysis resulted in a number of impact matrixes, assessing the impacts of the proposed policy options upon seven categories:

1. industry
2. SMEs
3. market competitiveness
4. consumers
5. Member States
6. trade
7. environment.

[3] Christine Moorman, Rex Du and Carl F. Mela, "The Effect of Standardized Information on Firm Survival and Marketing Strategies," *Marketing Science* 24, no. 2 (2005): 263–274.
[4] E. Golan, F. Kuchler and L. Mitchell, "Economics of Food Labelling," *Journal of Consumer Policy* 24 (2001): 117–184.

The main results are summarised below.

The structure of legislation has only a small impact on total labelling costs

The structure of the legislation affects how easy it is for stakeholders to familiarise themselves with the legislation. The proposed changes have the potential to reduce the information costs associated with the legislation. The available evidence suggests, however, that costs of gathering information constitute only a small part of the overall costs of administrative burdens related to food labelling. Information costs are estimated to contribute up to 5 per cent to labelling costs in Denmark and up to 13 per cent of all food legislation in the United Kingdom. Changes in the structure of the legislation thus might have a positive impact on the cost of producing labels but this impact is likely to be small.

Scope of the legislation

Better information on allergens is the main benefit of labelling food sold loose

Consumers and some Member States consider information on potential allergens as very important for food sold loose (through catering/restaurants/retailers). Anecdotal evidence suggests that most food allergy incidents happen outside the home and can be traced back to food sold loose. However, consumer demand for other information is limited. Tracing the relevant information on allergens for food sold loose, and keeping it up to date, imposes costs on the food industry. As this information is most likely to be presented on menus in restaurants and on displays for food sold loose at counters, trained staff are required for daily updates. Due to the nature of transactions, the provision of labelling information for food sold loose has no single market impact, thus different national legislations would not pose additional burdens on the food industry. There are no reliable cost estimates for labelling food sold loose, but they are expected to be relatively small.

Distance selling can be included in food labelling legislation at small costs

Distance selling constitutes only a small, although growing, part of food retail sales. Virtually no research has been conducted into the specific labelling issues surrounding the distance selling of food, so RAND Europe's research has had to rely on the general understanding of consumer benefits and company costs, on arguments brought forward by stakeholders and on analyses by Members States in judging the possible effects of the policy options.

Under the current regulation, foodstuff sold through distant selling has to meet identical labelling requirements as food sold in stores. However, distance sellers are not obliged to provide all information on the label to the consumer at the moment of sale. This means that the consumer is unable to make an informed choice and to assess all the relevant characteristics of the food product at the moment of purchase. Given the technical possibilities of the Internet as the main distance selling channel, RAND Europe estimates that the costs of actually providing all information on the label, also at the point of sale are small.

Extending labelling requirements to small packages can be expensive and requires further research

There is very limited evidence on the impact of extending mandatory labelling requirements to small and very small packages. However, there would seem to be some apparent effects if labelling were to be extended to small packages below 10cm²:

- information would become illegible if squeezed onto small packages
- labelling machineries might have to be adapted to print on various sides of a product
- package size might have to be increased to meet labelling requirements, leading to negative environmental impacts.

If producers find ways to produce legible information on small packages, consumers will clearly benefit from a better informed choice. To accommodate labelling requirements, possible alternatives should be assessed, including flexibility in the format in which information should be provided. Another alternative would be to mandate the provision of information at the point of sale rather than on the package itself. This would not only minimise the costs to consumers (since enlarging packages to accommodate mandatory information is likely to be the most costly alternative) but it would also prevent additional waste and resources used for the creation of these packages.

Mandatory requirements

Under the heading of mandatory requirements, a number of diverse and very specific policy options were proposed. However, no separate body of evidence exists specifically to assess the impact of these policy options. Research had to rely on generic sources of labelling requirements to assess the impacts of:

1. removing the obligation of declaring the same ingredient twice
2. removing some existing derogations (exemptions) concerning the durability date
3. requiring additional information.

Declaring ingredients once rather than twice reduces clarity for consumers at marginal cost savings for food producers

Declaring only once those ingredients that are declared twice frees up space on the food label which might be used for other labelling requirements, for instance to increase visibility or for marketing purposes of the food producers. This slightly eases the burden on the food industry. There are, however, health risks associated with not labelling caffeine and phenylalanine, which are likely to outweigh the small advantages for the industry.

Removing derogations in the durability date allows consumers to assess the quality of certain food products better but at additional costs for the food industry

Removing derogations in the durability date has an impact on food producers, who would now have to provide this information. However, it must be assumed that the information should be already available and only small costs would thus occur for the inclusion on the label or for information at the point of sale. Consumer benefits are, however, equally small. There are no benefits for including containers above 5l for mass caterers. For pastry cooks'

wares and single portions of ice-cream, the proposed option allows the consumer to make a better informed food choice.

The impact of requiring additional information on the food involves additional cost for the food industry for unclear consumer benefits

In this area, there was virtually no evidence available on consumer demands and benefits. Some of the information might have health impacts; however, there was not enough evidence available to assess whether there would be strong consumer benefits from this policy option. On the other hand, the option would involve small to large additional costs for the food industry, depending on the extent to which transfer additives are used and have to be labelled.

The legibility of the information is a prime concern of the revision; improvements will lead to modest to large cost increases for food producers

Legibility of food labels is a prime concern of many consumers, as survey data from across Europe shows. Consumers prefer legible information in a readable font size; one study identified a font size of 8pt as the minimum. In addition, consumers prefer standardised information which allows them to locate the mandatory information easily on the package. Evidence from the US suggests that mandatory requirements for nutrition labelling did improve readability and were achieved at a modest cost to industry.

Mandating legibility requirements increases the costs to industry if it requires more space on the label. This can be generated by dropping marketing information, by refraining from using multilingual labels, or by increasing the size of the label.

Origin labelling is demanded by consumers and could lead to significant increases in labelling costs depending on the extent of the requirements and the definitions of origin

Throughout the European Union, consumers like to see country of origin information on food products. The labelling of meat products, and beef in particular, is seen as the top priority; however, this is not covered by the proposed revision. Benefits to the final consumer occur primarily by increasing the possibilities of informed choice. However, food safety or health benefits cannot be assumed, as national and imported food is subject to the same safety regulations.

There is little European evidence on the cost implications of introducing mandatory origin labelling. However, there is evidence around the introduction of country of origin labelling for a number of raw and fresh products in the US, and origin labelling for packed and processed food in Australia. Both concluded that there are substantial net costs in implementing the regulation, predominantly for food producers and retailers.

European survey data suggest that around half of the companies already provide origin information; of the companies surveyed in this study, 42 per cent are already using origin labelling. Country of origin labelling has the potential to increase labelling costs considerably if it leads to frequent labelling changes, is linked to extensive tracking of ingredients and requires considerable space on the package.

Mandatory origin labelling involves difficult definitional issues to ensure country of origin information is meaningful and that misleading labelling is prevented. However, such a definition was not part of the policy option.

A number of market effects could be attributed to the introduction of country of origin labelling; however, no specific studies have been conducted in the European context to estimate any such effect. So called 'food nationalism' or broader 'consumer ethnocentrism' is particularly relevant in country of origin labelling. Consumers might choose national food over foreign food, which might lead to an increased segmentation of food markets across Europe undermining the single market. In addition, any country of origin labelling has to be seen in the context of possible conflicts with international trade regulations. On the other hand, country of origin labelling might be used as a marketing tool to advertise specific food qualities.

Labelling of alcoholic beverages can easily be implemented by alcoholic beverage producers at low costs

There is little evidence on the impacts of extending horizontal, mandatory labelling requirements to alcoholic beverages, which so far have been exempt from regulation. The level of consumer interest in ingredient labelling of alcoholic beverages is unclear. A qualitative study commissioned by DG SANCO did not find evidence of particular consumer interest, while data from the UK and the Netherlands suggest a certain interest in ingredient listings for alcoholic beverages.

While the actual ingredient listing should be readily available to the company, introducing ingredient listings will impose costs on the producers of changing and printing new labels. The value consumers put on beverages prepared according to traditional principles might lead to a favourable market position for producers who can show through their ingredient listing that they adhere to such principles.