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**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

**on the exercise of the delegation conferred on the Commission pursuant to
Regulation (EU) No 1169/2011 on the provision of food information to consumers**

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1. Introduction

This report meets the obligation set for the Commission by Article 51(2) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers (hereinafter 'the Food Information Regulation')¹. The Food Information Regulation establishes the general principles, requirements and responsibilities governing food information, and in particular food labelling. The provision of food information has to pursue a high level of protection of consumers' health and interests by providing a basis for final consumers to make informed choices and to make safe use of food, with particular regard to health, economic, environmental, social and ethical considerations.

Article 51(2) of the Food Information Regulation empowers the Commission to adopt delegated acts on the subject matters referred to in the following provisions:

- Article 9(3): the Commission may establish the criteria subject to which one or more mandatory particulars may be expressed by pictograms or symbols instead of words or numbers in order to ensure that consumers benefit from other means of expression. In this context, the same level of information as with words and numbers has to be ensured and the evidence of uniform consumer understanding has to be taken into account.
- Article 10(2): the Commission may amend Annex III, which lays down additional mandatory particulars for specific types or categories of foods, in order to ensure consumer information with respect to those foods and to take account of technical progress, scientific developments, the protection of consumers' health or the safe use of a food.
- Article 12(3): when better adapted for certain mandatory particulars, the Commission may establish criteria subject to which certain mandatory particulars may be expressed by means other than on the package or on the label. In those cases, the same level of information to consumers must be ensured, taking into account evidence of uniform consumer understanding and of the wide use of these means by consumers.
- Article 13(4): the Commission has to establish rules for legibility of mandatory particulars in order to attain the objectives of the Regulation. Without prejudice to Articles 16(1) and 16(2), the Commission may also extend to additional mandatory particulars, for specific types or categories of foods, the requirement that the name of the food, the net quantity of the food and, for beverages containing more than 1.2% by volume of alcohol, the actual alcoholic strength by volume, appear in the same field of vision.
- Article 19(2): in exceptional cases, taking into account the relevance for the consumer of a list of ingredients for specific types or categories of foods, the Commission may supplement the list of foods that are not required to bear a list of ingredients, provided that

¹ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, (OJ L 304, 22.11.2011, p. 18).

the omissions do not result in the final consumer or mass caterers being inadequately informed.

- Article 21(2): the Commission has to re-examine and, where necessary, update the list of substances or products causing allergies or intolerances of Annex II to ensure better information for consumers and to take account of the most recent scientific progress and technical knowledge.
- Article 23(2): the Commission may establish, for certain specified foods, a manner for the expression of the net quantity other than in units of volume (litres, centilitres, millilitres) for liquid products and in units of mass (kilograms, grams), in order to ensure a better understanding by the consumer of the food information on the labelling.
- Article 30(6): in order to take account of their relevance, the Commission may amend, by adding or removing particulars, the lists of particulars of the mandatory nutrition declaration that can supplement it (Article 30(2)); the information of the nutrition declaration that can be repeated (Article 30(3)); the content of the voluntary nutrition declaration where provided on alcoholic beverages with less than 1.2% alcohol (Article 30(4)); and the content of the voluntary nutrition declaration where provided on non-prepacked foods (Article 30(5)).
- Article 31(2): the Commission may adopt conversion factors for the vitamins and minerals which may be declared in the nutrition declaration, in order to calculate more precisely the content of such vitamins and minerals in foods.
- Article 36(4) : where voluntary food information is provided by food business operators on a divergent basis which might mislead or confuse the consumer, the Commission may provide for additional cases of provision of voluntary food information to the ones already referred to in Article 36(3), in order to ensure that consumers are appropriately informed.
- Article 46 : without prejudice to Article 10(2) and Article 21(2) as referred to above, relating respectively to the amendments to Annexes III and II, the Commission may amend the Annexes to take into account technical progress, scientific developments, consumers' health, or consumers' need for information.

2. Legal basis

Pursuant to Article 51(2) of the Food Information Regulation, the power to adopt delegated acts under Article 9(3), Article 10(2), Article 12(3), Article 13(4), Article 18(5), Article 19(2), Article 21(2), Article 23(2), Article 30(6), Article 31(2), Article 36(4) and Article 46 was conferred on the Commission for an initial period of 5 years after 12 December 2011. The Commission had to present a report on the exercise of the delegation of power conferred by the Food Information Regulation not later than 9 months before the end of the 5-year period. The delegation of power is to be extended tacitly for periods of 5 years, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

The Commission adopted a first report on the exercise of the delegation of powers under the Food Information Regulation on 11 March 2016². That report described the activities carried out during the time period.

² Report from the Commission to the European Parliament and the Council on the exercise of the delegation conferred on the Commission pursuant to Regulation (EU) No 1169/2011 on the provision of food information to consumers. COM(2016) 138 final.

3. Exercise of the delegation

During the period starting on 11 March 2016 to date, the Commission has not identified the need to make use of any of the delegated powers conferred by the Food Information Regulation. While all the delegated powers conferred remain appropriate, the decision not to make use of them has been the result of a regular and sound assessment of the aspects covered by the delegations of power during the period at hand, based on the feedback gathered from national authorities, consumers and stakeholders and in the light of the experience gained in the implementation of the Food Information Regulation.

In particular, Articles 13(1) to 13(3) of the Food Information Regulation lay down the requirements for the presentation of the mandatory particulars so they are easily visible, clearly legible and, where appropriate, indelible. In particular, to ensure their legibility, Articles 13(2) and 13(3) and Annex IV of the Regulation set minimum font size requirements taking into account the surface of the material. The ‘legibility’ as defined in Article 2(2) point (m) of the Food Information Regulation refers also to other aspects of the presentation, such as letter spacing, spacing between lines, stroke width, type colour, typeface, width-height ratio of the letters and contrast between the print and the background. In this context, Article 13(4) of the Regulation mandates the Commission to set additional rules for the legibility of the mandatory particulars to attain the objectives of the Regulation. The implementation of Articles 13(1) to 13(3) of the Food Information Regulation has not brought until now any evidence that the existing rules would not be sufficient to guarantee the clear legibility of the mandatory particulars. Taking account of the overall purpose to achieve the right balance between the protection of consumers and the flexibility to allow a smooth conduct of business for food business operators, the Commission has not found it appropriate, during the period at hand, to implement the empowerment received to introduce additional requirements related to the legibility of the mandatory particulars.

Furthermore, by virtue of Article 21(2) of the Food Information Regulation, the Commission has to re-examine systematically the list of substances or products causing allergies or intolerances included in Annex II. In the light of that permanent assessment, where necessary, the Commission updates the list in order to ensure better information for consumers and to take account of the most recent scientific progress and technical knowledge. In accordance with that provision, during the period at hand the Commission has monitored closely the situation with regards to substances or products that may cause allergies or intolerances and has not gathered any evidence that would suggest that there is a need to take further step for a modification of Annex II to the Food Information Regulation.

As the Commission report of 11 March 2016 on the exercise of the delegation conferred on the Commission announced, Article 18(5) of the Food Information Regulation was abolished on 1 January 2018.

4. Conclusion

Since 11 March 2016, the Commission has not exercised the delegated powers conferred to it under Regulation (EU) No 1169/2011. It invites the European Parliament and the Council to take note of this report.