



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 November 2013

16575/13

**DENLEG 133
AGRI 768
SAN 464
COMPET 860
MI 1070
CONSOM 203**

NOTE

from:	Italian delegation
to:	Council
Subject:	“Hybrid” nutrition labeling system recommended in some Member States <i>- Information from the Italian delegation</i>

Delegations will find attached an information note by the Italian delegation on the above mentioned subject.

**“HYBRID” NUTRITION LABELING SYSTEM
RECOMMENDED IN SOME MEMBER STATES -**

Information from the Italian delegation

BACKGROUND

The “traffic light” system for food labeling is aimed at classifying foods as more or less “healthy” by assigning them a “green”, “yellow” or “red” color, based on the content of the product.

On 19 June 2013, the British Department of Health adopted a Recommendation for a “hybrid” nutrition labeling scheme, based on such an approach.

In particular, food products are classified as more or less “healthy” (green, yellow or red), on the base of the content of total fats, saturated fats, sugar and salt in 100 grams of product.

The issue has already been discussed on 4 October in the *Standing Committee on the Food Chain and Animal Health* and on 29 October in the Commission’s Expert Group on *Food Information to Consumers*.

Discussions have highlighted concerns from Member States.

Such recommendations are likely to generate negative effects on:

- the free circulation of goods in the Internal Market
- traditional regional food products bearing quality marks recognized by the EU
- correct health information for consumers

Italy, therefore, asks to submit these issues to the attention of Ministers in the Competitiveness, Employment, Social Policy, Health and Consumer Affairs and Agriculture and Fisheries Councils.

SPECIFIC ISSUES TO BE DISCUSSED

1. Internal Market

Even though the above mentioned Recommendation has been presented as a “*voluntary agreement*” between the Government and “*all interested parties*”, to be applied only by food operators who decide to sign it, major retailers in the UK have already signed up to the scheme, putting strong pressure on food operators, particularly on small firms with a low bargaining power.

In fact, small suppliers of those retailers “own labels” will have no choice but to apply the colour-coded labels on their products, if they want to continue selling them.

The alignment to the recommendation is also likely to significantly reduce the overall turnover of the suppliers in the UK, since many consumers will be discouraged to buy the products labeled as “red”, even though the information offered by the “traffic-light” is simplistic and does not take into account how different food products are combined in a healthy diet.

The implementation of voluntary schemes in markets that are based upon large-scale retail trade are likely to produce important spill-over effects also in other Member States.

At the same time, since there are no harmonized requirements, other Member States may adopt different voluntary labeling schemes, thus fragmenting the Internal Market.

In other Member States, the same product, in the same supermarket, on the same shelf, may thus result labeled in two (potentially 28) different ways, since products labeled according to the UK scheme may also be sold in other Member States, especially if manufacturers and retailers (implementing the voluntary scheme) operate at EU-wide level.

Italy would like to underline that, on the basis of the “mutual recognition” principle, Member States can’t prevent these labels from circulating in their own territories.

Extra unjustified burdens and related costs for the EU Food Industry could also emerge.

Art. 35 of Regulation (UE) No 1169/2011 clearly provides that any additional labeling has to be objective, non-discriminatory and must not create obstacles to the free movement of goods. Italy is seriously concerned that the above Recommendation could hinder the free movement of food products within the European internal market.

2. Health and Consumers

Any supplementary form of expression of the nutritional content of a food should be based on sound and scientifically valid consumer research and should not mislead the consumer aiming to facilitate consumer understanding of the contribution or importance of the food to the energy and nutrient content of a diet.

The colours foreseen by the UK scheme are calculated on the basis of the amount of nutrients contained in 100 grams of product, regardless of the reference intake of each nutrient and of the portions consumed. The thresholds set by the Guidance for the colour coding of nutritional amounts constitute an element of incompatibility of the UK Recommendation with the requirements that foresee that an additional form of representation must be “objective and non-discriminatory”. This could lead to consumer confusion and wrong choices, creating a false sense of security for the unlimited consumption of “green” foods.

The Mediterranean diet, which is the result of a balanced mix of different products and is deemed by UNESCO as a cultural heritage to protect, for instance, could see most of its foods classified as “unhealthy” under such a scheme.

3. Agriculture

Many foods benefiting from EU Quality schemes (PDO, PGI, TSG), such as cheese, ham, honey, jam and fruit compote, etc... would all get a “red” label. The consequence could be that, while food products bearing EU quality marks should to respect stringent regulations about their composition, other products could freely be reformulated, changing the content of fat sugar and/or salt in order to get a “green label”. This “traffic light” labelling would thus be in contrast with the European quality policies because, on one hand, these products (PDO, PGI, TSG) are recognised as “quality products” at European level and, on the other hand, with the red label they could be identified as “bad products” and consequently refused by the consumers.

CONCLUSIONS

In order to establish if the UK recommendation may lead to arbitrary discrimination and obstacles to EU internal trade, in breach of Articles 34 to 36 of the EU Treaty, there is a clear need to carefully assess its effects on:

- the free circulation of food products within the EU internal market;
- the fact that the traffic light colour coding does not help consumers to understand the contribution of food and drinks to the nutrient content of a diet. On the contrary, it suggests a global judgement on food, which may create a distinction between ‘bad’ and ‘good’ products affecting any free and informed consumer’s choice;
- the safeguard of traditional regional food products, bearing EU Quality schemes marks such as PDO, PGI and TSG.