



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 January 2014

5899/14

**DENLEG 22
AGRI 51
SAN 53
COMPET 60
MI 97
CONSOM 24**

NOTE

from:	Italian delegation
to:	Council
No. prev. doc.:	16575/13 DENLEG 133 AGRI 768 SAN 464 COMPET 860 MI 1070 CONSOM 203
Subject:	Impact on the EU Acquis of “Hybrid” nutrition labelling 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.

**IMPACT ON THE EU ACQUIS OF “HYBRID” NUTRITION LABELLING SYSTEM
RECOMMENDED IN SOME MEMBER STATES**

BACKGROUND

The “traffic light” system for food labelling 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 labelling scheme, based on such an approach.

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

The issue was brought to the attention of the Ministers in the EPSCO (10 December 2013) and Agrifish (16-17 December 2013) Councils.

Discussions have already highlighted concerns from a large number of 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

SPECIFIC ISSUES

1. Impact on the Internal Market

Red labelling is clearly aimed at influencing the consumers’ choice. This is an infringement of the internal market. The consumer will be led not to buy at all a “red-labeled” product, since that food will be perceived as a “bad” food for health, regardless of any dietary consideration.

In fact, on the basis of a Survey made by UK retailer *The Co-operative Group*: “Some 40% of women and almost a third (30%) of men say that “red” traffic lights have stopped them from purchasing a product”¹.

¹ <http://www.co-operative.coop/corporate/Press/Press-releases/Food/A-healthy-relationship-can-be-bad-for-womens-health/>

“Red” and “green” may have an influence on free competition among producers. That impact is amplified by the political support expressed by the UK Government to the system, creating preconceptions for the free choice of consumers.

Significantly the “Guide to creating a front pack nutrition label for pre-packed products sold through retail outlets”², published in June 2013 by the Department of Health of the UK, targets with specific examples only non-UK products, with references to Italian sounding products (past bake and tomatoes) and Dijon Mustard (see. page 26) !

According to a first estimate Italian food exports would suffer a loss between 189,7 and 253 million €, with a sharp decrease of the overall Italian export to the UK, estimated between 8,4% and 11,2%.

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, the major retailers in the UK have already signed up to the scheme, putting strong pressure (which may result in potential unfair commercial practices) on food operators, particularly on small firms with a low bargaining power. 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 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. 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.

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

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.

2

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207588/FINAL_VERSION_OF_THE_2013_FOP_GUIDANCE_-_WEB.pdf

Art. 35 of Regulation CE 1169/2011 clearly provides that any additional labelling has to be objective, non-discriminatory and must not create obstacles to the free movement of goods. This system creates a “de facto new labelling standard”, entailing a non-tariff barrier to trade. The scale of the UK market and the potential spillovers in other Member States could eventually have major consequences on food industry, with a negative impact on European competitiveness. For all those reasons, Italy is seriously concerned about the impact of the said Recommendation on the free movement of food products within the 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 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-labelled” foods.

The “traffic-light” is simplistic and does not take into account how different food products are combined in a healthy diet.

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;

3. Agriculture

Many foods benefiting from EU Quality schemes (PDO, PGI, TSG), such as cheese, ham, honey, jam and fruit compote, etc...would get a “red” label. The consequence could be that, while food products bearing EU quality marks should 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 EU 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 competitiveness of the European food industry;
- correct health information for consumers
- the safeguard of traditional regional food products, bearing EU Quality schemes marks such as PDO, PGI and TSG.

We therefore urge the European Commission to carry out a thorough assessment of the conformity of the above mentioned measures to the EU law and of their impact on the internal market. It may be also of interest for other Member States to produce estimates on the impact of the above system on their food industry.