

Response to the Food Standards Agency on the EC proposal for a Regulation on the Provision of Food Information to Consumers.

Food Solutions members include many trade and specialist organisations which together represent some 30,000 small food businesses in Britain. We have consulted all our members and those of the Regional Food Groups, tourist boards and others involved with the food sector. We have considered the proposal for a Regulation on the Provision of Food Information to Consumers and would put forward the following response to the consultation. We recommend option 2, that of active negotiation, as we see significant disadvantages to small food businesses in Britain if the draft Regulation were to be accepted in its present form (option 1). Our views correspond closely with those of our colleagues in trade organisations within the other member states.

Whilst we welcome the intention to bring together and consolidate the rules on food labelling we feel the present draft goes too far in certain fields. We do not see this as a simplification. It is not as it adds some significant extra burdens and gives the opportunity for further complications for business. Such national provisions would seriously disadvantage UK traders both in the domestic market place and in the European Union. Our position is that mandatory labelling should be for safety rather than preference.

Scope

There appears to be some confusion as to whether this draft applies equally to pre-packed foods as well as foods sold loose. Article 1.3 supplemented by Article 2.2.d would mean that all those who serve foods in any way are covered. This seems to be contradicted in annex IV which says that foods supplied directly to the consumer in small quantities or to local retail establishments are exempt. We would ask for clarification. Our position is that the statement in annex IV should be part of the definition.

Allergens

We strongly object to the suggestion that all allergens should be declared on loose foods.(recital 41). This provision is impractical, unrealistic and totally unworkable. We believe that adequate provision is made in the FSA guidance issued in 2007 that advises caterers to inform customers if they ask about ingredients wherever that is possible.

Loose foods

We would also strongly object to the suggestion in Article 41 that national authorities should be able to make nutrition declarations mandatory on loose foods. This too we consider unworkable, nonviable and frankly impossible. The allowance of five years from the date of the Regulation coming into force to the

date of enforcement for very small businesses does not make the provision any more feasible.

There are many groups who will be affected by this Regulation that may not be in a position at present to put over their views. Our members include small hotels and bed and breakfast establishments. Some have told us that, if this comes in in its present form, they would cease using fresh ingredients and serve only pre-cooked food service meals. In that way they could be sure that the labelling requirements were correct. To so prevent the use of freshly cooked vegetables and meals would seriously disadvantage customers on both choice and health grounds.

Units

We would object to the demand that all quantities should be in grams or litres. There are some products that are traditionally sold in pints or pounds and we would ask that negotiators seek to keep that opportunity. The cost of, for instance, replacing all pint milk bottles for no justifiable reason would be huge.

COOL

We accept the suggestion for country of origin labelling. We note that this is unchanged from previous legislation. It should be obligatory only where failure to do so may mislead the consumer. Otherwise this is a commercial decision as to whether the product is labelled Cornish, Welsh, Scottish or Newcastle. We ask that the provisions of Article 35 and Article 9.i be maintained. We would further suggest that the Agency looks again at the beef labelling provisions.

Instructions

We are not happy with Article 9.j which would make “instructions for use” mandatory for many products. As worded it does not seem to be a safety issue, which would be reasonable. It could apply to butter, potatoes or meats. The provision has been strongly criticised by members.

Possible impacts

We have reservations about Article 4.1. To have to declare the possible health impact of consuming a certain food is impractical. There would need to be a large leaflet attached to each product similar to the disclaimers in certain prescription drugs. Small businesses cannot be aware of all the possible harmful or hazardous consequences of consumption of all foods. That cannot be expected of them.

Special diets

Nor can small businesses give information on nutritional characteristics to enable consumers with special dietary requirements to make informed choices. (Article

4.1.c). Such requirements could be interpreted as those with vegetarian, Halal or Kosher preferences. Our members appreciate the need to alert those people with allergies to the foods listed in annex II, but they do not accept any need to declare preferences. The scope is far too wide as it could include infants, pregnant women, athletes and geriatrics. We see a wide difference between customers' needs and their wants.

Nutrition

Small enterprises do not have the capacity or expertise to provide nutrition declarations in all cases. One of the strengths of small businesses is the ability to innovate and provide customers with exactly what they ask for rather than a standardised product. If nutritional declarations are made mandatory every item may need to be analysed so that the declaration is accurate. Recipes change with the seasons and availability. Even the composition of natural products varies throughout the year. Therefore consumers would be disadvantaged as they would not be able to have the variety and levels of service that they can have at present.

Although the suggestion is not in the EC proposal, we would point out that the FSA preference for a "traffic light" system of nutrition advice would be expensive to many small enterprises. Their labels are often printed in one colour only. The extra costs of colour printing would be large and quite unjustified.

Presentation

The draft proposal suggests that all the mandatory information should appear on the front or "principal field of vision" of a package. The printing should be in a font that is at least 3mm on a contrasting background. We say that this is impossible without greatly increasing the size of packaging. It has been indicated that the area required to put all the mandatory information is at least 800 square cm. This would lead to more waste packaging and thus more material going to landfill. We note that there is a derogation for packs below 10 cm². We would point out that very little of the proposed mandatory information could be put on a pack of 11 cm²

Exemptions

Our members have indicated that they welcome the exemptions listed in annex IV and would urge the Agency to maintain these in their entirety.

Effects

We do not consider that all the demanded information is necessary. There is no credible evidence that the inclusion of a list of contents and a nutrition declaration on the front will deter any consumer from becoming over weight. Most people who are going to become too heavy are unlikely to read details on a food label other than the price and the name.

Costs

The cost for farmers' market stalls in the UK to declare allergens has been calculated at almost £800,000 per year in hardware alone without allowing for time spent. To declare nutrition values also could double that.

One member has said that "the result of the legislation is that we would probably have to stop producing our monthly specials. We really wouldn't have the money to produce new labels for products which often are produced and sold in a day as fresh and exclusive creations". Another who makes speciality yoghurt said "To go to reprint for the pots, design adjustment costing and new plates would probably be around between £16,000-£16,500. To a large company that is probably petty cash but to us it could mean the difference between surviving or not."

Recommendation

We would ask that the Agency takes issue with the Commission over this proposal and negotiates from the standpoint of safety alone. The idea of information being put on foods sold loose should be rejected. To accept the draft in its present form would disadvantage all small food businesses by adding significant costs and limiting the time available to develop products. It would also seriously disadvantage consumers by restricting choice, standardising all forms of food and increasing costs.

April 2008