



A Seminar on EU Regulations on Food Labelling

co-funded by the European Union and the National Bureau of Agricultural Commodity and Food Standards

Bangkok
30 April 2013

Session 4: The New EU Food Labelling Legislation
(Regulation 1169/2011)



Outline



Explanation of the new regulation:

- The New EU Food labelling legislation (Regulation 1169/2011)
- What are differences from the current rules (Directive 2000/13)?
- Whose responsibility is it to provide the food information required by the new regulations?
- What are the implications to Thai exporters (potential risks and opportunities) ?



Historical Context



- Food labelling rules began to be approximated throughout Europe from the 1980s
- National rules were allowed to and had deviated in detail from the labelling directives (2000/13/EC, and earlier 79/112/EEC)
- Commission Consultation 2006
- Directive 2000/13 was used as “common” reference point in view of national deviations
- The new regulation is the result of a complex legislative process incorporating the views of multiple stakeholders across 27 Member states



Consumer Understanding 2006 DG Sanco Consultation



Labelling: competitiveness,
consumer information and better
regulation for the EU

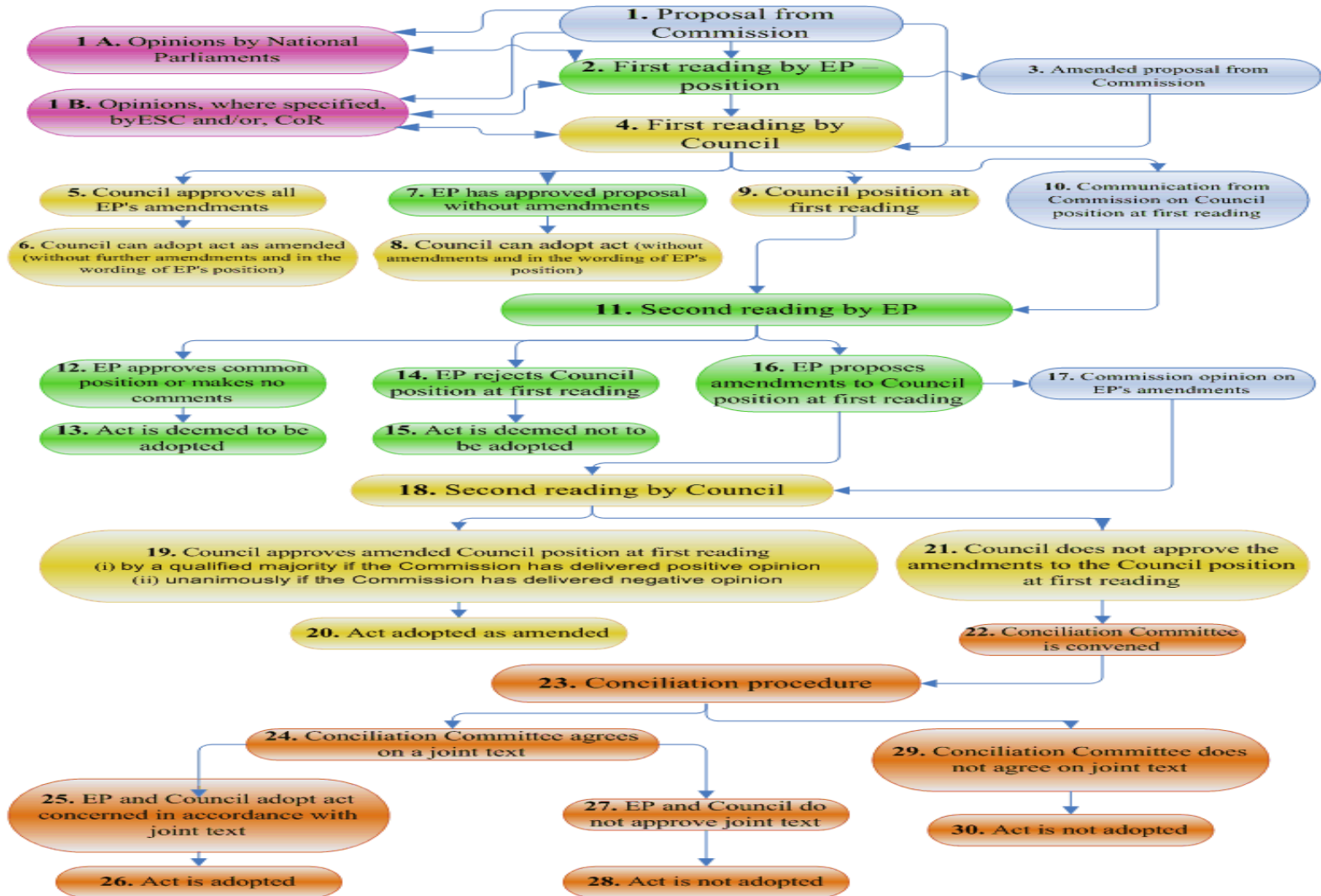


Labelling is **not fulfilling its true potential**. “The reasons for this failure are varied, but perhaps start with a simple **lack of consumer interest** in the information a label provides. Even if the consumer is interested, many **find using labels difficult** as they contain **too much information**, much of which is **not understood, is confusing and is poorly presented.**”

In considering specific labelling issues, it will be important to **take into account the results of consultations and relevant research**. The former can provide an overview of current legislation, identifying stakeholders' views on its effectiveness, any problems with implementation, and possible suggestions for amendments. Research, especially where it involves consumers, can be helpful in assessing whether current labelling rules are working and what changes might be required in any revision of the legislation. It can also be useful as a way of ‘testing’ innovative ideas for labelling.



Legislative Process





Outcome of six years of political process



- **More information on labels**
- **Changes to how existing information is to be presented**
- **Aims to improve consumer understanding/interest**
- **Includes information directed at particular interests**
- **On-going process further issues to be determined**

e.g. COOL, FoP format, surface area ...

This will affect every food label in or destined for the EU

Labels will have to be changed!



Member State implementation



- National implementing instruments required for the Food Information to Consumers Regulation (FICR); but its **substantive text is directly applicable throughout EU**
- Commission Guidance for compliance, for example see:
- http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/docs/qanda_application_reg1169-2011_en.pdf
- As 2000/13 was used as the “pivot” many labelling concepts remain familiar
- But, there are significant differences and new provisions!



What's new



- Broadened Scope
 - Transport
 - Charities
- Tighter provisions on misleadingness
 - “Imitation” foods
 - Pictorial representations
- Clarified Responsibilities
 - Relabelling
 - Business to Business
 - Lidl case



What's new



- Mandatory information
 - Minimum font size
 - Nutrition labelling
 - Origin for meat (future : dairy/“primary” ingredients ?)
 - Technical changes (with more detail to follow)
 - Allergens
 - Net quantity
 - Date of durability
 - Name and address
 - Special Storage Instructions/Instructions for use
 - Name of the food



Clarity



- Minimum font size of 1.2mm x-height (0.9mm for smaller packages)
- Must be
 - visible
 - Indelible
 - legible
- Applies to article 9(1) requirements
- Derogations & exemptions for smaller packs based on largest surface area



From Dec 2014 Minimum font size(1)



Legend

X - HEIGHT



1	Ascender line
2	Cap line
3	Mean line
4	Baseline
5	Descender line
6	x-height
7	Font size

X height (lower case) equal or greater than:

- **1.2mm**, or
- **0.9mm** (packaging or container with the largest surface less than 80 cm²)



From Dec 2014

Minimum x Height (2)



Apply to mandatory particulars listed in Article 9 (1)

- Product name
- List of ingredients; Allergens; Quantity declaration
- Net quantity – [separate provisions under weights and measures legislation still apply]
- Best before/ use by date
- Special storage conditions / Conditions of use
- Name and address of food business operator
- Country of origin
- Instructions of use
- Nutrition declaration (applies also to repeated nutrition information – e.g. Reference Intake (RI) values)



Example 1



simply fruity muesli
A blend of multigrain flakes with dried and sweetened dried fruit.

good to know

- ✓ High in fibre
- ✓ Contains wholegrains
- ✓ A low sodium food
- ✓ Low in fat
- ✓ Low in saturated fat
- ✓ Vegetarian Society approved

nutritional information

typical values	100g as sold	45g serving*
Energy		
kJ	1,410	881
kcal	334	209
Protein	7.4g	7.3g
Carbohydrate	66.4g	36.6g
- of which sugars	29.0g	18.6g
Fat	2.8g	3.1g
- of which saturates	0.5g	1.5g
- monounsaturates	0.8g	0.9g
- polyunsaturates	1.0g	0.6g
Fibre	7.7g	3.0g
Sodium	0.03g	0.10g
- equivalent as salt	0.08g	0.26g

* a serving includes 125ml of semi-skimmed milk

ingredients
Dried and sweetened dried fruit (30%) [sultanas, sweetened dried papaya (10%) (sugar, papaya, preservative: sulphur dioxide), raisins, sweetened dried pineapple (6%) (sugar, pineapple, citric acid, preservative: sulphur dioxide)], barley flakes, oat flakes, wheat flakes, toasted & malted wheat flakes (wheat, barley malt extract).

allergy advice
Please see ingredients for allergens. May contain nuts and milk.

We use only the best, natural ingredients and this means sometimes a stray piece of shell or fruit stone may sneak past our checks and into your bowl.

best enjoyed
Serve with milk, yoghurt or fruit juice for a delicious and nutritious breakfast.

storage instructions
Store in a cool, dry place. Some of the best bits may have settled at the bottom of the pack, so please shake gently before opening. For best before end date, see base of pack.

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in Scotland no: SC036866

Minimum font size by Dec 2014



Name of the Food



- Detailed requirements in Annex
- Processes (included defrosted)
- Use of customary names on traded foods
- Rules covering “imitation” foods



Name of the Food 1st/3



A legal name, if there is one



Name of the Food 2nd/3



or in its absence, its customary name



Name of the Food 3rd/3



A descriptive name of the food



Name of the Food



Accompanied by other descriptive information in proximity to the name of the food if:

necessary to distinguish it from foods with which it could be confused

And if:

other information provisions of the Regulation (particularly general provisions) would not enable consumers **in the Member State of marketing** to know the true nature of the food.



Name of the Food



- In exceptional cases where there are disparities between name of the food:
 - in the Member State of production and the Member State of marketing
 - as regards its composition or manufacture, and
 - an accompanying statement is insufficient to ensure correct information for consumers,

that name cannot be used.



Name of the Food



Specific provisions on the name of the food and particulars that shall accompany it are laid down in Annex VI, relating to processes such as:

- freezing,
- defrosting,
- and irradiation
- the use of "substitute" ingredients
- rules for meat products, meat preparations and fishery products, (including an indication of added proteins which are of a different animal origin, water if more than 5%, and if the product is "formed")



From Dec 2014 Name of The Food



Meat products, meat preparations and fishery products which contain added proteins, including hydrolysed proteins, of a different animal origin **shall bear an indication of the presence of those proteins and of their origin:**





From Dec 2014 Name of The Food



- Foods frozen before sale, sold defrosted;
name of the food + “defrosted”
- Does not apply to:
 - a) Ingredients
 - b) Foods for which freezing is technologically necessary for production
 - c) When defrosting has no negative impact on safety or quality



From Dec 2014
Name of The Food



Meat products, meat preparations and fishery products which may give the impression that they are made of a whole piece of meat or fish, but actually consist of different pieces combined together by other ingredients, shall bear the following indication:

“formed meat”

or

“formed fish”





From Dec 2014 Name of The Food



Meat products and meat preparations which have the appearance of a cut, joint, slice, portion or carcase of meat, shall include:

‘With Added water’ if more than 5 % of the weight of the finished product.

The same rules apply for fishery products and prepared fishery products which have the appearance of a cut, joint, slice, portion, filet or of a whole fishery product.





Net quantity



- Ability to sell by number if normal practice
- Liquids as volume, weight for everything else (but, can use both)
- Must use SI units but others are allowed
- National exemptions gone (e.g. for small packs in the UK)



Date Marking



- New definition of “use-by”
- Some exemptions removed
- Food past “use-by” presumed unsafe
- Consider carefully whether “use-by” or “best-before”
- Removal of field of vision requirement
- Date of freezing/first freezing for frozen meat, meat preparations and unprocessed fishery products.



Country of origin or place of provenance



- Detailed rules for
 - fresh and frozen meat
 - Primary ingredient when claims are made
- Reports on a number of areas
- Covers more than just countries



Allergens



- In the ingredients list
- Highlighted
- Reference to allergen for each ingredient
- Not required if allergen listed in name of food
- Contains '...' if no ingredients list
- Provided for loose foods



Example 1



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Allergens highlighted, End of Allergy Box? by Dec 2014



Miscellaneous matters



- Oils used when the term ‘vegetable Oil’ used in ingredients list
- with amended wording for hydrogenated vegetable oil/fat;
- removal of the exemption for water for meat, meat preparations, unprocessed fishery products and unprocessed bivalve molluscs in the ingredients list;



Miscellaneous matters



- addition of mechanically separated meat to the generic ingredient names list;
- two new additive categories “foaming agent” and “sequestrant”;
- glazed product exemptions for QUID;
- labelling of “nano”;
- triggers for caffeine labelling;
- distance selling requirements;



Miscellaneous matters



- Aspartame declared by e number
- Article 37's impact on branding.
- The European Commission will also decide in the future if mandatory labelling provisions shall apply for:
 - trans fats and
 - alcoholic beverages more than 1.2% alcohol by volume
 - Definition of “alcopops”



Responsibilities – Article 8



- **Article 8.2:** FBO duty to ensure presence and accuracy of required information
- **Article 8(3):** FBOs which do not affect FI shall not supply food which they know or presume, on the basis of information in their possession as professionals, to be non-compliant with food law or relevant national provisions
- Consequence of *Lidl Italia* ECJ judgment



Implementation



- Regulation now in force
- Directly applicable
- Revokes 2000/13, & National rules (e.g. Food Labelling Regulations 1996) in 2014
- EU and National provisions run in parallel during transition



Implementation



- The provisions contained within the Food Information Regulation (FIR) can be followed from adoption date.
- Businesses can also follow the current rules contained in national rules for three years following entry into force.
- After three years, where nutrition information is provided it must follow the FIR format
- After five years the nutrition declaration becomes mandatory, however stocks placed on the market prior to this time can continue to be traded until exhausted.



Implementation - Summary



FIC Regulation published in OJ	22 Nov 2011
FIC Regulation came into force	13 Dec. 2011
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Application date for the majority of provisions	13 Dec. 2014
Current legislation (including Directives 2000/13 and 90/496) repealed	13 Dec. 2014
Foods on the market or labelled prior to 3 years after the regulation can be sold until	Food stocks are exhausted
Foods bearing a nutrition declaration on a voluntary basis must comply with the requirements of the EU FIC Regulation from	13 Dec. 2014
Application date for nutrition declaration becoming mandatory	13 Dec. 2016
Foods on the market or labelled prior to 5 years after the Regulation which do not have a nutrition declaration can be sold	Food stocks are exhausted



Implications to Thai exporters



- Familiarisation with all aspects of the legislation that is relevant to your products
- Collate the information necessary for re-labelling
- Use “due diligence” to verify
- The majority of products will require a label re-design
- Exporters need to build in time to develop artwork
- Ensure suitability for printing with their packaging suppliers
- Review and approve it for compliance
- Minimise re-iterations due to legal issues, typo’s, and human error.
- Have new labels/packaging printed, and in place, and functional in time to exhaust old label stocks without incurring packaging write-off.



Designing a compliant Label



- **Product** - recipe, format, pack size, ambient/chill/freeze, taste etc
- **Marketing Copy** - branding, photography / graphics, product claims, recipes or serving suggestions **must not mislead**
- **Design** - attract attention, sell the product but **must not mislead/compromise mandatory information**
- **Legal Copy** - name of the food, ingredients, nutrition, storage & use, weight, date code, origin information, name and address, etc., etc
...**need to familiarise with new requirements**
- **Commercial demands** – brand colours, barcode, recycling etc logos,
...**mandatory information**
- **Packaging Format** - material(s), shape, gauge, print process
...**consider legibility**
- **Cutter Profile** - size, shape, seals, closures, orientation, printable area...**must not mislead/compromise mandatory information**
- **Thereby avoid enforcement issues at EU ports or markets**



Example 1



Order will need to change

And will be mandatory by Dec 2014

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Minimum font size by Dec 2014



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Session 5: Nutrition Declaration



Outline



- **Nutrition labelling under Regulation 1169/2011**
- What are differences from the current rules (Directive 90/496)?



Key nutrition issues



- **Mandatory**
 - nutrition labelling for prepacked foods
- **Voluntary**
 - front of pack nutrition labelling
 - nutrition labelling for non prepacked foods
- **Transition periods**



Mandatory nutrition labelling for prepacked foods



- Information required on
 - Energy;
 - Fat;
 - Saturates;
 - Carbohydrates;
 - Sugars;
 - Protein;
 - Salt;
- Information required on a per 100g/ml basis



Changes to 'back of pack'



- Re-ordering to emphasise the nutrients important to public health
- Sodium no longer permitted, although statement can be added explaining “salt” is due to naturally-occurring sodium
- Trans fats cannot be declared, pending a report by the Commission within **3 years**



Nutrition table changes



Group 2 nutrition labelling

	Per 100g
Energy	1500 kJ/ 356 kcal
Protein	9.9g
Carbohydrates	58.1g
of which	
Sugars	16.8g
Fat	7.4g
of which	
Saturates	1.1g
Fibre	8.9g
Sodium	Below 0.1g



FIR nutrition labelling

	Per 100g
Energy	1500 kJ/ 356 kcal
Fat	7.4g
of which	
Saturates	1.1g
Carbohydrates	58.1g
of which	
Sugars	16.8g
Protein	9.9g
Salt	Below 0.1g

NB: fibre can also be declared voluntarily



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New Nutrition format

– by Dec 2014 or Dec 2016



NUTRITION INFORMATION / INFORMATIONS NUTRITIONNELLES / INFORMAZIONI NUTRIZIONALI / NÄHRWERTANGABEN			
TYPICAL VALUES / VALEURS NUTRITIONNELLES MOYENNES / VALORI NUTRIZIONALI MEDI / DURCHSCHNITTLICHE NÄHRWERTE	Per/ Pour/ Pro/ 100g	Per/ Pour/ für/ 1 Cookie (31g)	% GDA* per/ par/ pro Cookie (31g)
Energy / Valeur énergétique / Valore energetico / Brennwert	1873 kJ 447 kcal	139 kJ 581 kcal	7%
Fat / Lipides / Grassi / Fett of which saturates / dont saturés / di cui acidi grassi saturi / davon gesättigte Fettsäuren	16.8 g 9.7 g	5.2 g 3.0 g	7% 15%
Carbohydrate / Glucides / Carboidrati / Kohlenhydrate of which sugars / dont sucres / di cui zuccheri / davon Zucker	68.9 g 29.4 g	21.3 g 9.1 g	8% 10%
Fibre / Fibres alimentaires / Fibre alimentari / Ballaststoffe	2.4 g	0.7 g	
Protein / Protéines / Proteine / Eiweiss	4.7 g	1.5 g	3%
Salt / Sel / Sale / Salz	0.8 g	0.2 g	4%

Different
Order

Fibre
declaration
voluntary

Note Salt
equivalent not
sodium



Voluntary front of pack



- Voluntary FOP information permitted on either:
 - energy-only, or
 - energy plus fat, saturates, sugars & salt
- Information can be provided on a per portion basis for energy + 4 nutrients, provided that energy is also provided on a per 100g/ml basis.



Voluntary front of pack



- % RI information can be given on a per 100g/ml or per portion basis
- Additional forms of expression and presentation are permitted, subject to certain requirements.



Nutrition information for non-prepacked foods



- Voluntary information can be limited to:
 - energy only; or
 - energy, plus
 - Fat;
 - Saturates;
 - Sugars; &
 - salt;
- Information can be provided on a per portion-only basis.
- Member states can introduce **national rules to mandate certain aspects of the nutrition declaration** if they wish.
- % RI information, as well additional forms of expression are permitted (subject to fulfilling criteria).



Additional forms of expression (AFE)



- Possible to express the nutrition information in different ways to just words and numbers.
- Must satisfy a number of requirements, such as:
 - they are based on sound and scientifically valid consumer research;
 - their development is the result of consultation with a wide range of stakeholders; and
 - they aim to facilitate consumer understanding
- National governments can recommend one or more AFE
- Member States must monitor the use of AFE in their territory and report these to the Commission
- The Commission will write a report, with the potential for future harmonisation of AFE across the EU



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Foods on the market or labelled prior to 5 years after the Regulation which do not have a nutrition declaration can be sold	Food stocks are exhausted