Food labelling: a brief analysis of European Regulation 1169/2011

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Abstract

The variety of labelling legislations of single European (EU) Member States hinders legal certainty for consumers. The standardisation pursued by EU Regulation 1169/2011 will at long last provide the 28 EU Member States with a common legislation. The present article carries out a summary benchmarking analysis of the new legislative framework.

Introduction

At the beginning of the 20th century, following the introduction of the canned food trade, information began to appear on food packaging, currently known as labels, which were till then simple paper strips bearing just a catchword or the manufacturer's name or even the food product name. In 1950, labels were used to show information about the ingredients and the product expiry date. Under Italian Legislative Decree no. 109 of 27 January 1992 (Italian Republic, 1992) implementing Directive 89/395/EEC and 89/396/EEC (European Commission, 1989a, 1989b), labelling is regarded as the set of references, indications, trademarks or trade images or symbols relating to the foodstuff which appears directly on the package or on a label or on the fasteners or signs, rings or collars accompanying or referring to the product itself.

The approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs establishes common ground for governing food information, enabling EU consumers to make informed choices in relation to food and specifically to prevent misleading actions and omissions of information [Reg. (EU) No 1169/2011; European Commission, 2011]. Most of the 204 notified labelling-related issues pertains to incorrect labels, undeclared allergenic ingredients, and unlabelled irradiation (Kleter *et al*., 2009). Some aspects of the provision of information to consumers should be complemented by specific rules in order to prevent unfair business practices. EU Regulation 1169/2011, part of the regulatory path traced by the Union, should contribute to attaining high consumer's protection levels thanks to the measures taken to ensure the free movement of food and to unify the laws of individual countries.

The labelling of nutritional content and of permitted additives has been receiving increasing attention (Marks, 1984). The presentation of nutrition information on food packaging, the inclusion of nutrition information is voluntary unless a nutrition-related claim is made concerning the food. The nutrition declaration for food concerns information on the presence of energy and certain nutrients in foods. The mandatory provision of nutrition information on packaging should assist nutrition actions as part of public health policies which could involve the provision of scientific recommendations for nutrition education for the public and support informed food choices.

The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well-being of citizens, and to their social and economic interests. In order to achieve a high level of health protection for consumers and to guarantee their right to information, consumers should be appropriately informed as regards the food they consume.

Case Report

Trade is facilitated when food labelling information requirements are similar among countries. Comparisons between recent nutrition labelling regulations issued by the EU and the old Italian Legislative Decree 109/1992 (still in force; Italian Republic, 1992), identify not only challenges to EU harmonisation that require focused efforts, but also opportunities for increasing EU agreement on nutrition labeling (Christine *et al*., 1996). The innovations introduced by EU Regulation 1169/2011 (European Commission, 2011) are many and varied (Table 1). These can be distinguished in terms of principles and requirements.

EU Regulation 1169/2011 seeks to ensure a high level of information security for consumers and gives more responsibility to food business operators (FBOs), thus increasing the responsibility of retailers with respect to food safety risk.

As a first step towards this goal, an inventory of labelling regulations was assembled and analysed to identify commonalities, differences and future needs (Gendel, 2012). In the end, FBOs will have to provide information regarding quality, enabling consumers to make informed choices, with an approach based on prevention. To achieve this goal, it is essential to compare the old Italian Legislative Decree 109/1992 with the new EU Regulation No 1169/2011, which will enter into force on 13 December 2014 in order to highlight its innovations.

Discussion

EU Regulation 1169/20011 brings together in a single legislative text the set of rules on food labelling, presentation and advertising. The innovations introduced by the new regulation are marked by the mandatory need for nutrition labelling and specific information about the presence of allergens in the ingredients themselves (Table 1). The general labelling requirements are complemented by a number of provisions applicable to all foods in specific circumstances or to certain categories of foods. In addition, there is a number of specific rules which are applicable to specific foods. There is no reference to the production lot, which must be cited on the label (Art. 9) based on Council

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Table 1. Main innovative aspects of European Regulation No. 1169/2011 in comparison to Italian Legislative Decree 109/92.

Topic	Italian Legislative Decree 109/92	Reg. (EU) 1169/2011	Innovative aspects
Ingredient	Any substance, including additives, used in the manufacture or preparation of a foodstuff and still present in the finished product, even if in an altered form (Art. 1)	Any substance or product, including flavourings, food additives and food enzymes, and any constituent of a compound ingredient, used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form. Residues shall not be considered as ingredients (Art. 2)	Additives are not considered to be ingredients
List of particulars	List of indications for prepacked products (Art. 3); packaged food products intended for the consumer should report the following details: i) the sales description; ii) the list of ingredients; iii) the net quantity or the nominal quantity (in the case of pre-packed products on a quantity basis); iv) the period of minimum durability or the use-by date; v) the net quantity of the food and the quantity of certain ingredients or categories of ingredients; vi) any special storage conditions and/or conditions of use; vii) the name or business name and address of the food business referred to in Art. 8, paragraph 1; viii) the country of origin or place of provenance where provided for in Art. 26; ix) the instructions for use, for cases where their omission would make it difficult appropriate use of the food; x) a nutrition declaration; it is optional, but becomes mandatory when a nutritional claim on the label or in an advertisement	List of mandatory particulars (Art. 9); the following particulars shall be mandatory: i) the name of the food; ii) the list of ingredients; iii) any ingredient or processing aid listed in Annex II or derived rom a substance or product listed in Annex II causing allergies for intolerances used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form; iv) the quantity of certain ingredients or categories of ingredients; v) the net quantity of the food; vi) the date of minimum durability or the use by date; vii) any special storage conditions and/or conditions of use; viii) the name or business name and address of the food business operator referred to in Art. 8(1); ix) the country of origin or place of provenance where provided for in Art 26; x) instructions for use where it would be difficult to make appropriate use of the food in the absence of such instructions; xi) a nutrition declaration	Mandatory nutrition declaration: i) the meat, meat preparations and fishery products that appear as slices, fillets or portions, made from a single piece, but in reality are the result of the union of different parts obtained throughout ingredients, including food additives and enzymes must indicate the specific indication (ANNEX 6° part A, point 5°) reconstituted meat, reassembled fish; ii, iii, iv) packaged foods must have a nutritional table with a list of seven values (energy, fat, saturated fats, carbohydrates, proteins, sugars and salt) per 100 g or 100 mL of the product, which can be supported by data referring to a portion; v, vi) date on each individual prepacked portion and not only on the outer packaging; vii) indicate the date of freezing (or first freezing for products frozen more than once); in this case, however, the labelling reads as follows: frozen on followed by day, month and year. A frozen or thawed product sold must bear a label with the word defrosted; viii) the country of origin or place of provenance for meat swine, sheep, goats and poultry
Non-prepacked food	Sale of bulk products, non-prepacked food, or food sold prior to fractionation, although originally prepacked, products packaged on the sales premises at the purchaser's request and products prepackaged for direct sale, must be equipped with a visible sign, applied to their containers or applied in the sale sectors in which they are exhibited. The sign should report: i) the sales description; ii) the list of ingredients (except in cases of exemption); iii) the storage conditions for quickly perishable food (if necessary); iv) the date for homemade and stuffed pasta (Art. 16)	National regulations for non-prepacked foods. Where foods are offered for sale to the final consumer or to mass caterers without prepackaging, or where foods are packed on the sales premises at the consumer's request or prepacked for direct sale: i) the provision of the particulars specified in point (ii) of Art. 9(1) is mandatory; ii) the provision of other particulars referred to in Art. 9 and10 is not mandatory, unless Member States adopt national measures requiring the provision of some or all of those particulars or elements of those particulars. Member States may adopt national provisions concerning the means through which the particulars or element of those particulars specified in paragraph 1 are to be made available and, where appropriate, their form of expression and presentation (Art. 44)	According to the regulation, the only mandatory indication is for the possible presence of allergens. For the rest, please refer to national provisions

Directive 89/396/EEC (European Commission, 1989b). The overall objectives of the regulation intend to protect local quality labels while ensuring the free movement of goods within the Community (Art. 3.2), the fairness of trade and also the protection of consumer's health and interests (Art. 3.1). Art. 8 provides that the FBO responsible for the food information shall be the operator under whose name or business name the food is marketed. The FBO has the responsibility to ensure the presence and accuracy of information, in compliance with the rules, while not influencing the same information. It also attempts to clarify the responsibilities of economic operators regarding information provided on the label and advertising. In the case of foods from outside the EU, the labelling will be under the responsibility of the importer.

Conclusions

When the food is made and/or packaged by others on behalf of FBOs who use their own name or company name (*e.g.* private labels), the latter shall be responsible for the completeness and truthfulness of the information. The final aim of the new regulation is the protection of public health and consequently to ensure a good level of consumer's protection. The regulation under discussion is intended to make FBOs responsible at all levels in the food chain. These are extremely important innovations regarding food products that could result in future involvement by all food sectors. The harmonisation of national laws needs to ensure free circulation of goods and fair trade in the European Community (Cheftel, 2005), so the new regulation comes from a strong need for a common language within European Union countries.

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