New EU Food Labeling Regulation Published

Regulation (EC) No. 1169/2011 on the provision of food information to consumers ("the Regulation") was published on 22 November 2011 in the EU Official Journal. The Regulation contains the new EU food labeling rules thereby repealing the nutrition labeling (90/496/EEC) and food labeling (2000/13/EC) Directives and consolidating their provisions under one Regulation. The main objective of the Regulation is to inform consumers about the composition of foods and to help them make better-informed choices, in particular, with respect to health, economic, environmental, social and ethical considerations.

The Regulation applies to food intended for the final consumer and mass caterers. However, it applies to food business operators at all stages of the food chain, where their activities concern the provision of food information to consumers. It will apply from 13 December 2014, with a few exceptions, like the nutrition declaration which will apply from 13 of December 2016. The Regulation also allows companies to voluntarily implement it ahead of the above application timeframe. Companies will need to start planning now to be in a position to comply with the new labeling requirements by the time they become mandatory.

The Regulation introduces new rules with respect to mandatory nutrition labeling, legibility, distance selling and engineered nanomaterials in food. It also clarifies the obligations of food business operators in the supply chain, further improves requirements on food allergens, vegetable, imitation foods and it intends to extend the mandatory country of origin labeling to other products.

According to the new regulation, nutrition labeling will become mandatory. Therefore, information on the energy content as well as amounts of fat, saturates, carbohydrates, sugar, protein and salt must be stated on the label. Before, this requirement was voluntary unless a nutrition-related claim was made concerning the food.

The mandatory nutrition declaration must be expressed per 100g or 100 ml. In addition, a portion-based declaration may be provided on a voluntary basis, especially when the food is pre-packed in individual portions or consumption units. The nutrition labeling must be provided in a legible tabular form (or linear format due to space constraints) on the packing and in the same field of vision. An exemption from the requirement to provide the mandatory nutrition declaration applies to foods in small packaging.

The new regulation aims at ensuring that mandatory food information is provided in a clear and legible way. For that purpose it establishes that the minimum font size that may be used on food labels is 1,2 mm for the \(x\)-height and 0,9 mm for containers with an area less than 80 cm.² With respect to food sold via internet (distance selling), it requires to provide the mandatory food information before the purchase is concluded.

One main feature of this Regulation is the establishment of specific labeling requirements for nano-food ingredients. Ingredients present in the form of engineered nano-materials must be indicated in the list of ingredients followed by the word ‘nano’ in brackets. In addition, the definition of engineered nanomaterial is provided. This is the same definition which was included in the failed proposal for a Regulation on Novel Foods. Though, it is mentioned that the Commission will adjust and adapt this definition to technical and scientific progress or to definitions agreed at the international level. It is also possible that the Commission will review this definition when the new proposal on Novel Foods is adopted and that it will take into account the common definition on nanomaterials it adopted in October 2011.

The Regulation clarifies that the food business operator responsible for compliance with the food labeling rules is the operator under whose name or business the food is marketed, or if established outside the EU, the importer into the EU market. As the Regulation applies to food business operators at all stages of the food chain, they shall not supply food which they know or presume not to be in compliance with the food labeling requirements. In addition, food business operators will be responsible for any changes they make to food information accompanying a food.
The Regulation also reinstates the principle that food information should not be misleading and that it must be accurate, clear and easy to be understood by consumers. In particular, it requires not to suggest the presence of an ingredient that has been substituted (e.g. imitation foods); to indicate the consumer that a particular product has been defrosted when such condition will have an effect on the safety, taste and physical quality of the product; and to indicate the specific vegetable origin of vegetable oils.

The Regulation introduces more detailed labeling requirements on allergens as it requires to clearly distinguish allergens from the rest of the list of ingredients, by emphasizing or highlighting the allergen in the ingredients list. Furthermore, if several ingredients or processing aids used in the food originate from a substance causing allergies or intolerance, this must be stated on the label. Non-prepacked foods sold to the final consumer must also indicate the presence of allergens.

The Regulation also intends to extend the current country of origin or place of provenance labeling to other food products. Under the current EU laws, it is mandatory to provide country of origin for fresh beef and beef products, honey, fruit, vegetables, fish, and olive oil and whenever its absence is likely to mislead consumers as to the relevant product’s true country of origin. Subject to a prior impact assessment carried out by the Commission by 2013, the country of origin labeling requirements may extend to other meats such as swine, sheep, goat and poultry meat as well as to primary ingredients in food. Furthermore the Commission will draft a report in two or three years, on the feasibility of indicating the specific vegetable origin of vegetable oils.

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As mentioned before, the new food labeling rules will become applicable from the 13th of December 2014, except for (i) specific requirements concerning the designation of “minced meat” which will apply from 1 January 2014 and (ii) the mandatory nutrition declaration which must apply starting from 13 December 2016. Products labeled or placed on the market before the end of these transition periods may continue to be sold until stocks are exhausted. Also, the Regulation gives companies the choice to place on the market products with food labels compliant with its provisions ahead of the transition periods mentioned above.

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