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European Natural Soyfoods
Manufacturer Association
(ENSA) Position Paper on

‘Labelling:
Competitiveness,
Consumer Information
and Better Regulation
for the EU’

a DG SANCO Consultative
Document



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The European Natural Soyfoods Manufacturer Association (ENSA) represents the interests of Natural Soyfoods Manufacturers in Europe. Members include various companies ranging from multinationals to family owned businesses, dedicated to providing consumers with a natural and healthy product.

GENERAL COMMENTS

ENSA welcomes DG SANCO's publication of a background document on labelling and appreciates the initiative to consult at an early stage of the policy process in order to ensure a coherent approach in this important area.

The last few decades have seen important changes in lifestyles and consumer preferences. Consumers are increasingly aware of food products composition and benefits. This has been particularly true in the soyfood sector, which witnessed an unprecedented growth in the last ten years. Clearly, this has led to a situation where updated legislation is sorely needed at European level. While markets such as that for soyfoods have developed rapidly in response to consumer demand, regulations have simply not kept pace, particularly as far as labelling rules are concerned. Unfortunately, this has created a peculiar situation for soyfood manufacturers who, notably with regards to rules on the use of the denomination "milk", in truth currently find themselves in a legislative vacuum.

ENSA believes that clear and consistently applied labelling rules would allow for fair competition in the food sector, whilst at the same time guaranteeing a high-level of consumer protection. ENSA members are therefore in favour of introducing mandatory and complete nutritional labelling. Currently, full labelling is only required in cases where a claim is made. ENSA strongly believes that rules requiring exhaustive information to be provided on all pre-packaged foods would be a key step to improve consumer information and ultimately intelligent healthy consumer choices. It is imperative, however, that this mandatory nutritional labelling is well understood by the European consumers and enables them to incorporate the food into a balanced diet.

ENSA members have already for some time gone beyond existing legislation to provide additional nutrition information. Education campaigns coupled with clear and complete information on products have ensured that European consumers have a full understanding of the benefits of soyfoods in a varied and balanced diet. For example, Italian Valsoia has published 50 recipes on-line, ranging from healthy versions of the traditional pizza or Tartufi, to less "Italian" dishes such as kebab, couscous or burgers. Another example worth mentioning is that, in 2005, ALPRO organised, with the BBC Good Food Show, the Family Health Awards 2005.



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Although labelling is not the only possible conveyor of information, ENSA believes that it remains a fundamental mean of communication with consumers, as it has the capacity to reach the maximum number of consumers both at the point of sale and at the time of consumption. The possibility to communicate with consumers in other ways should not detract from the need for labels to contain adequate information in a familiar format in order for consumers to make informed choices.

The Commission document makes a distinction between ‘necessary’ information (use-by dates, safety warnings) and information that is considered only as ‘useful’. ENSA would, in this context, like to highlight that for numerous EU citizens suffering from food allergies and intolerances or who for other reasons are on a modified diet, nutritional information (e.g. on lactose and cholesterol), is of fundamental importance. This is in line with the Commission’s recognition that we are dealing with ‘consumers’ and not ‘the consumer’. Although a “one size fits all” is impossible, complete nutrition information remains key and the Commission should thus ensure that vague and unsubstantiated information is banned. A level playing field will, furthermore, ensure fair competition between food companies across the EU.

ENSA’S POSITION

ENSA provides here its initial opinions on the issues and questions presented in the consultation document. For the sake of clarity, the headings and numbering corresponds to those of the Commission text.

Strategic goal

7. ENSA agrees on the strategic goals set out in the Commission document:

- **Provide consumers with necessary information to enable them to make safe, healthy and sustainable choices.** Soyfood producers are in favour of initiatives aimed at informing and educating the consumers. This represents an area of ongoing commitment on the part of ENSA members. Indeed, clear information has largely been responsible for the increase in the soyfood market over the past decade. ENSA members are committed to ensuring that complete and relevant nutritional labelling continues to be provided in the future.
- **Create a pro-competitive market environment.** Currently, the nutritional labelling and general labelling requirements do not provide for the development of a competitive market. For example, current rules on milk denomination do not allow the labelling soymilk (although coconut milk and almond milk are allowed whilst these are not at all nutritionally equivalent to cow’s milk and whilst on the contrary soymilk is a nutritional alternative to cow’s milk).



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Not only does this largely confuse consumers, who refer to liquid soy products as soymilk, this creates an unfair competition basis and affects the VAT rates applied by Member States. Indeed, dairy products benefit from lower VAT rates effectively making them cheaper. This creates an unfair situation for lactose intolerant citizens, those consumers that enjoy the taste and benefits of soyfoods, and those who simply do not wish to base their diet on dairy milk derivatives; these groups have to pay more for their nutritional needs because soymilk products are made more expensive than dairy products.

- **Be consistent, coherent and transparent.** This is another key area for future labelling policy. Currently, different labelling practices mean that consumers cannot make an informed choice between brands and between categories of foods. In addition, practices vary from one country to another, creating additional confusion. This is particularly important for food products which are substitutable for consumers, such as dairy and soy products. Labelling should allow consumers to distinguish naturally processed foods from those that are produced by assembling chemically-extracted ingredients. In addition, consumers should also be able to make the distinction between products not labelled “with GMO” and those that are “guaranteed GMO free”.
- **Create common framework and rules in order to eliminate barriers to free circulation of goods.** ENSA welcomes the Commission’s recognition of the international dimension to labelling rules. To facilitate trade and the competitiveness of the European food industry it is important that future labelling rules are consistent with those in operation in other markets, (e.g. US and Asia) but especially within Europe.

An important example in this context is the claim concerning the cholesterol-lowering effect of soy protein, which is recognized by the Codex Alimentarius, and which is allowed in certain countries but not in others. Different regimes create a situation of unfair competition and underline the importance of consistency with international standards.

9. It may indeed be useful to test innovative ideas for nutritional labelling, the current labelling rules being insufficient to allow the consumer to make healthy choices. It appears obvious that other forms of nutritional labelling should be provided, but they would have to be uniform, and not confusing (the recent visual systems are too heterogeneous and/or over simplistic).

10. With regards to the kind of information that consumers want to see, it appears in our consumer studies that soyfoods consumers want “GMO free” products. As this may not apply to all categories of food products, this kind of labelling should be possible, but not mandatory.



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11. Horizontal legislation would be useful since it would facilitate for producers the application of rules and it could also improve the conditions for consumer comprehension. However, food and non-food products should be considered separately. A normative framework could allow for a certain standardisation in terms of the way that information is presented, but should allow a level of flexibility in order to adapt to the changing expectations of consumers. For example, there could be a list of nutrients whose inclusion in labelling is mandatory but the producer should be able to add a nutrient if it is considered useful for consumers, such as for example cholesterol or lactose. These claims are important and should not fall under the PARNUTS¹ Directive as, today, soyfoods are consumed by all consumers and should no longer be seen as products for particular nutritional uses.

12. It is essential that future labelling policy is developed in a way that is consistent in approach with other, related Community legislative measures, particularly the Regulation on Nutrition and Health Claims. Labelling on a product is not confined only to claims on nutritional information but should also be considered as part of a package . When consumers choose specific products they base it on the combination of information received and not only on one labelling component. In this context, it is worth noting that ENSA is supportive of the Health Claims initiative but feels that the list of nutritional claims allowed is inadequate and lacks the key claims such as:

- cholesterol free;
- lactose free; and
- free of cow's milk protein.

Common themes

15. ENSA supports in particular efforts to consider the impact on small and medium sized enterprises (SMEs). The introduction of labelling changes would involve costs for all producers and could affect SMEs disproportionately. Nevertheless, the need for proper consideration of the impact on SMEs should not detract from the need to establish mandatory labelling standards. Complete yet Simple and easily applicable legislation is key in this context.

One way to minimise the cost for SMEs would be to further develop the official databases which do not feature much information on soyfoods at the moment. SMEs would then be able to rely on official information as a point of reference.

¹ Council Directive 89/398/EEC of 3 May 1989 on the approximation of the laws of Member States relating to foodstuffs intended for particular nutritional uses



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Furthermore, adequate labelling which can be easily read and understood by consumers, has to be standardised. Consumers should not have to adapt to different labelling schemes from one product to another.

ENSA agrees with the Commission's emphasis on the fact that we are dealing with 'consumers' and not 'the consumer'. However, it is important to ensure that special needs not be easily dismissed as problems for marginal groups. In Europe, the prevalence of lactose intolerance varies from around 4% in Denmark to about 51% in Italy. In general, it can be stated that about two thirds of the world adult population is deficient in lactase, the enzyme that breaks down lactose.

GENERAL FOOD LABELLING AND NUTRITION LABELLING

General Food Labelling

Structure of the legislation

16. With regards to the labelling of allergens, market developments and the expectations of consumers have made necessary revisions to Directive 79/112. Soyfood producers have not waited for these regulatory changes to respond to the expectations of consumers. They already provide information on the absence of allergens such as milk proteins. It would seem evident that in addition to the labelling of major allergens foreseen by the legislation, other information, such as the absence of milk proteins, would be useful to a great number of consumers and should be included in the legislative framework in the future .

18. ENSA fully supports the Commission's commitment to better regulation. More important than the choice of legislative instrument is the need to ensure that rules are formulated in a way that is workable and fair. ENSA is therefore looking forward to the opportunity of contributing to the process again once specific legislative proposals have been put forward.

ENSA understands the difficulty involved in including all the statutory requirements on labelling for all sectors in a single legislative document. It would, however, be desirable to have the legal framework simplified and to the extent possible, compile labelling rules in one piece of framework legislation. For the purpose of simplification it would seem natural therefore to incorporate labelling measures in a horizontal *lex generalis*, complemented by vertical legislation where needed would seem natural.

21. It is very important that the legislation provides general rules for how the information has to be provided, to avoid that Member States introduce national requirements, which could lead to unwanted heterogeneity of the information provided to consumers.



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The legislative text should be a Regulation - directly applicable by Member States- and not a Directive (to avoid differences during transposition into national legislations).

Clear and readable labelling

From the point of view of both the consumer and the producer it would make sense to agree on a standard format for providing basic nutritional information. A uniform and familiar format will facilitate consumers' access and process of nutrition information as well as their ability to compare products. An agreed format would also support fair competition by creating a level playing field for substitutable products.

Nutrition Labelling

28.

- **Should nutrition labelling be made mandatory?**

Yes, nutrition labelling should be mandatory for all pre-packaged foods in order to allow the consumer to make a healthy choice and not to be misled. ENSA endorses activities which aim at improving information to consumers. Surveys conducted in this area indicate that most consumers want to see increased nutrition labelling. It is the Commission's role to ensure that the additional information is clear, standardised and understandable.

- **How much information is required?**

The aim of the future Community policy should be to provide the consumer with complete nutritional information. Currently the information on much packaging is inadequate and confusing e.g. if the total fat content is mentioned without the details about the saturated and unsaturated fat, it is impossible to know whether the food fits into the diet or not. Similarly, it is not useful to have information regarding total carbohydrate content if it is not possible to distinguish between simple and complex carbohydrates.

- **Are there alternative formats to providing nutrition information?**

ENSA is aware of the various schemes that attempt to simplify nutritional information. These vary from one Member State to another and some are confusing, over simplistic and insufficient. ENSA supports the use of GDAs (Guideline Daily Amounts) on the packaging (expressed as % per serving). These should be placed next to the nutritional data of the products to ensure that consumers receive maximum information very rapidly.



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GDA's would need to detail macronutrients as well as their subgroups (e.g. saturated fats and sugars) in order for the percentage expressions to provide consumers with a better understanding of the impact of consumption on their daily diet.

A European GDA format is absolutely necessary for international operating companies. This will, furthermore, ensure that consumers and companies benefit from a more operational Internal Market.

Colour-coding systems (such the traffic light system developed by the British Food Safety Authority) are not acceptable. This approach is over simplistic. It does not take into consideration the role of a particular food product in consumer's overall diets. Instead of educating consumers and ensuring these make informed choices, such systems merely increase confusion and are misleading.

- **Where should the nutrition label be put?**

When it comes to the placement of the label, it would be desirable to maintain current practice with all nutritional information be put together in a clear way on the back or on the side of the packaging.

It would be preferable to have all the information on the back of the pack, rather than have a front-of-pack signposting combined with more detailed information on the back. The risk would be that consumers would rely only on the visual cues provided on the front, which would by necessity be simplified.

- **How important is presentation of the information?**

ENSA believes that a graphical (e.g. bar chart) expression of GDAs would not be very clear to the consumer, given the limited space available on multilingual packs in particular. Where information is expressed in a small table it would seem best to show values as a percentage of the GDAs.

Colour-coding systems are not acceptable. This approach is over simplistic and not didactic. It does not involve the consumer in his/her food choices. Rather than prohibiting or over-valourising (the latter would create a risk of over consumption of certain products), the labelling should make it possible for the consumers to modulate their consumption based on informed choices. Alternative formats for providing nutrition information should enable consumers to consider the food product as a whole, not only as a sum of nutrients. Currently, consumers do not have enough information on their nutritional needs, the alternative format should inform them clearly on the role of the product in their daily food intakes.



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OTHER FOOD LABELLING ISSUES

Origin labelling

29. ENSA supports efforts to ensure that misleading origin statements are not made on products. Origin labelling is largely dependent on the trust of consumers and emotional responses. Origin labelling can be misleading since the origin of a product does not provide any guarantee as regards its quality. ENSA therefore agrees with the conclusion previously reached by the Commission that such labelling is not required for the consumer to make an informed choice. In addition, as the Commission points out, the impracticability of labelling composite foods, make mandatory rules undesirable in this area.

GMO labelling

37. ENSA understands from the Commission document that no changes are foreseen to current rules, which stipulate that foods containing GMOs must be labelled accordingly. It is our view that such a requirement properly reflects the wish of the consumer to be informed about GMOs. It should also be emphasised that to support labelling rules in this area it is necessary to have systems in place that ensure the traceability of products and ingredients. ENSA members produce soyfoods that are free of GMOs and have a history of clear and transparent traceability instruments.

It is our view that such a requirement reflects the demand of the consumers to be informed about GMOs: our studies show that consumers want to receive detailed information on GMOs and favour products that are guaranteed GMO-free.

40. The Commission should revise its position as regards "GMO-free" labelling, and provide technical rules enabling companies to respond to consumers' demands.



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FURTHER INFORMATION AND CONTACT

Established in January 2003, the ENSA represents the interests of Natural Soyfoods Manufacturers in Europe. The term “natural” refers to the production process used by the ENSA Members to produce non-dairy food using whole soybeans as compared to soyfoods produced from isolates without any use of GM (genetically modified) material and GM beans.

The ENSA is an association of internationally operating companies and producers of natural soyfoods with headquarters in various European Countries. It was formed to ensure the development of an appropriate and balanced regulatory framework for natural soy products in Europe.

Should you have any questions or comments, please don't hesitate to contact us at:

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