

For background information, please see [CL 2023/07/OCS-FL](#)

Codex Members and Observers are invited to submit comments on:

- (i) the proposed draft Guidelines Appendix II of [CX/FL 23/47/6](#); and to, in particular, comment on:
 - i) the status of the draft text as a supplementary text to the GSLPF and consider whether the text extends beyond the scope of the GSLPF.
 - ii) the proposed definition of e-commerce, as amended from the WTO definition, and consider whether:
 - (1) The definition should be adopted as proposed in the draft text.
 - (2) The unamended WTO definition should be used instead.
 - (3) A new specific definition is developed such as the one included in the text in square brackets.
 - iii) the removal of the minimum durability period and small unit exemptions to consider whether:
 - (1) The minimum durability should remain removed or included as suggested in the first sentence of 5.3 in square brackets (Appendix II, Section 5. Food Information Principles).
 - (2) The small unit exemption should remain removed or included as suggested in the second sentence of 5.3 in square brackets (Appendix II, Section 5. Food Information Principles).
 - (3) The inclusion of 5.3 to sufficiently cover the removal of the above points.
- (ii) whether the text is ready for advancement to Step 5.

When providing comments on the abovementioned, members and observers should take into account the outcomes of discussion in the EWG, the conclusions and recommendations (see paras. 5 – 8 of CX/FL 23/47/6) as well as the analysis in Appendix I of CX/FL 23/47/6.

Appendix II

PROPOSED DRAFT GUIDELINES ON THE PROVISION OF FOOD INFORMATION FOR PREPACKAGED FOODS OFFERED VIA E-COMMERCE (for comments at Step 3 through CL 2023/07/OCS-FL)

1. PURPOSE

1.1 The purpose of these guidelines is to ensure consumers buying prepackaged foods via e-commerce have the information needed to make informed choices. It also aims to provide additional provisions that should be used specifically when food is offered for sale via e-commerce, as outlined in Section 5, to address the specific complexities of product information e-pages.

2. SCOPE

2.1 These guidelines apply to the food information required, or provided voluntarily, for prepackaged foods offered for sale via e-commerce, and to certain aspects relating to the presentation thereof prior to the moment when a consumer commits to making a purchase.

2.2 It does not apply to information that is required on the label of prepackaged foods at the point of delivery for which the general standards are outlined within the *General Standard for Labelling of Prepackaged Foods* (GSLPF) (CXS 1-1985).

Commented [EFOAAADPA1]: Comment (135) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:19)

The guidelines for the sale of pre-packaged food products via e-commerce are in line with the GSLPF. However, there are additional definitions and rules that are specific to online commerce, and therefore partially different from the average physical sale. For example, buyers will come into possession of the asset only after the deed of purchase. However, food safety regulations such as the labelling of basic information, including allergens, apply to both types of trade.

Commented [EFOAAADPA2]: Comment (130) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 14:48)

The definition of "e-commerce" should remain as defined by the WTO, as it generally describes the meaning of the word. A more specific definition of food e-commerce could be added where it is explicitly described as the marketing, sale and purchase of pre-packaged food products.

Commented [EFOAAADPA3]: Comment (131) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 14:55)

The e-page product information should always indicate the period between the arrival of the product and the minimum shelf life. This information is needed to inform consumers of the time within which they will have to consume the food once it becomes available safely and thus make an informed choice.

Commented [EFOAAADPA4]: Comment (132) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 14:58)

Regarding the information exemption for small amounts of food, we believe this should not apply to online commerce. This possibility has been included for products with small packaging that cannot contain all the information. In an e-commerce context, this information is available to consumers.

Commented [EFOAAADPA5]: Comment (133) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:01)

We deem it essential to dwell on point 5, particularly the indication of the minimum duration and the information for foods of small quantities. Information regarding allergens must always be available to the consumer before, during a purchase.

Commented [EFOAAADPA6]: Comment (142) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 16:24)

In the context of these guidelines, it would be useful to include also some requirements from a procedural point of view. For example, who pays the transport back of a product?

Commented [EFOAAADPA7]: Comment (136) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:38)

EFA maintains that the scope of the guidance must apply also for food prepackaged at the point of sale, which applies to many purchases made online e.g. when ordering from a pizza or a burger restaurant. Obviously, in those cases the information should be provided at the point of sale.

3. DEFINITIONS

The following terms shall be used in conjunction with Section 2 of the GSLPF (CXS 1-1985) for the purposes of applying this text.

"At the point of delivery" means the moment when consumers receive prepackaged food.

"e-commerce" means the distribution, marketing, sale or delivery of goods and services by electronic means by methods specifically designed for the purpose of receiving or placing of orders. [Adapted from the WTO definition as of 2022]

["e-commerce" means the marketing, sale, or purchase of food stuffs through electronic or virtual means.]

"Food information" means the information about a prepackaged food that is the subject of a Codex text.

["Minimum durability" means the period (e.g. in hours, days, months etc.) between the point of delivery and the best before or use-by date, as applicable.]

"Prior to the point of e-commerce sale" means provided before consumers commit to make the purchasing order regardless of making any payment.

"Product information e-page" means the virtual space on any consumer-facing transactional digital platform, which is intended to facilitate informed e-commerce sale.

4. GENERAL PRINCIPLES

The general principles in Section 3 of the GSLPF (CXS 1-1985) are applicable to food information shown on the product information e-page of the prepackaged food that is being offered for sale.

5. FOOD INFORMATION PRINCIPLES

5.1 The food information required to be provided on the label of a prepackaged food or in associated labelling, shall be provided on the product information e-page of the prepackaged food prior to the point of e-commerce sale, except to the extent otherwise expressly provided in these guidelines, or any other Codex text.

This includes the following food information indicated in/by:

- Section 4 and Section 5 of the GSLPF (CXS 1-1985) except information required by 4.6 and 4.7.1;
- Section 3 of the *Guidelines on Nutrition Labelling* (CXG 2-1985);
- Any other relevant Codex text;
- Any national legislation.

5.2 A statement shall appear on the product information e-page prior to the point of e-commerce sale to direct the consumer to check the food information on the physical label before consumption.

5.3 A competent authority may require that additional information about the prepackaged food be stated on the product information e-page and may specify at which point in the e-commerce sale that information shall be shown.

[A competent authority may require that the product information e-page should state that a product is expected to arrive before a minimum period before the expiry date, within their national boundaries. The specific length of this expected period shall be determined by the producer.]

[A competent authority may require that the labelling exemption of small units outlined in Section 6 of the GSLPF (CXS 1-1985) should apply in an e-commerce context within their national boundaries.]

6. OPTIONAL FOOD INFORMATION PRIOR TO THE POINT OF E-COMMERCE SALE

Section 7 of the GSLPF (CXS 1-1985) is applicable to food information shown to consumers on the product information e-page for the prepackaged food that is being offered for sale.

Commented [EFOAAADPA8]: Comment (137) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:39)
Change to 'DEFINITIONS'

Commented [EFOAAADPA9]: Comment (138) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:40)
In the spirit of the comment above, it would be very useful of CCFL included a definition of what is considered as prepackaged food and what not

Commented [EFOAAADPA10]: Comment (139) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:43)
However, often platforms invite the consumer to call the retail for specific information on allergens, meaning that labelling information might be provided in an hybrid mode. How can this practice be covered by the note?

Commented [EFOAAADPA11]: Comment (141) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 16:20)
In the EU, the development of e-commerce is advancing towards more segmented information supposedly helping consumers make informed choices. For example, retailers are developing "allergen filters" for the 14 allergens recognised in the EU. However, how these filters are built is completely at the discretion of the e-shop (e.g. only considering free-from claims, the ingredient list, the voluntary labelling information etc). It would be very beneficial for patients and consumers to include into these Codex guidelines requirements for e-commerce platforms that propose a choice aid (a search and filtering engine) based on the product information.

Commented [EFOAAADPA12]: Comment (140) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:45)
EFA encourages CCFL to include a "last reviewed date" in the e-page information, so that retailers are obliged to state the last time they reviewed they updated the allergen information.

7. PRESENTATION OF MANDATORY FOOD INFORMATION

7.1 Food information required by these guidelines shall be clear, prominent and readily legible by the consumer under normal settings and conditions of use of such a product information e-page.

7.2 The language or languages on a product information e-page shall be suitable to the consumer in the country in which the food is marketed and to which it may be delivered.

Commented [EFOAAADPA13]: Comment (134) by European Federation of Allergy and Airways Diseases Patients' Associations (17 Apr 2023 15:04)

EFA proposes a version that offers greater clarity on the possibility to include food information in additional languages:

'Information should be in a language or languages easily understood by consumers in the country in which the food is marketed and to which it may be delivered.'

The linguistic requirement is essential for ensuring the provision of correct information to the consumer. According to EU law, which in many aspects represents a best practice in terms of food information to consumers, mandatory information on foods must appear in a language that is easily understood by consumers in the Member States where the food is marketed.

For prepackaged food put up for sale by means of distance communication techniques, all the mandatory information is provided on the packaging, on a label or on the e-page in a language which is easily understood by consumers in the Member State where the food is marketed. (EU Reg. 1169/2011 art. 14,15).