

For background information, please see [CL 2023/8/OCS-FL](#) and [CX/FL 23/47/7](#)

Codex Members and Observers are invited to submit comments on:

- a) The Proposed Draft *Guidelines on the use of technology to provide food information* (Appendix II of CX/FL 23/47/7), and in particular to provide comments on whether:
  - i. the proposed definition of "food information" should align with the same term used in the CCFL EWG on e-commerce/internet sales;
  - ii. Sections 4(1) and 4(2) cover the intent of item (a) in Project Document for this work ([REP 21/FL, Appendix V](#)) and that the GSLPF would not require revisions;
  - iii. a reference to "purchasers" is needed, or if "consumers" is sufficient; and
  - iv. the criteria in Section 5 of the Proposed Draft Guidelines in Appendix II of CX/FL 23/47/7 address items 3 (b)(i) and (ii) of the Project Document for this work.
- b) Whether the Proposed Draft Guidelines are ready to advance to Step 5 in the Codex step procedure.

When providing comments on the abovementioned, Members and Observers should review the summary of discussion, analysis and conclusions presented in Appendix I of CX/FL 23/47/7.

## PROPOSED DRAFT GUIDELINES ON THE USE OF TECHNOLOGY TO PROVIDE FOOD INFORMATION

(For comments at Step 3 through CL 2023/8/OCS-FL)

### 1. Purpose

Provide guidance on the use of technology to provide information about prepackaged foods<sup>1</sup>.

### 2. Scope

These guidelines apply to food information that is accessed using technology via a reference on a prepackaged food's label or labelling<sup>2</sup>. For the purposes of this document, technology refers to any electronic or digital means, such as websites, online platforms and mobile applications.

### 3. Definitions

For the purpose of this guideline:

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

### 4. Principles for the Use of Technology in Food Labelling

Food information that is accessed using technology via a reference on the prepackaged food's label or labelling should be based on the following principles:

- (1) Food information shall not be described or presented using technology in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.<sup>3</sup>
- (2) Food information shall not be described or presented using technology by words, pictorial or other devices which refer to or are suggestive either directly or indirectly, of any other product with which such food might be confused, or in such a manner as to lead the **[purchaser or]** consumer to suppose that the food is connected with such other product.

<sup>1</sup> As defined in the *General Standard for the Labelling of Prepackaged Foods (CXS 1-1985)*

<sup>2</sup> As defined in the *General Standard for the Labelling of Prepackaged Foods (CXS 1-1985)*

<sup>3</sup> Examples of descriptions or presentations to which these General Principles refer are given in the Codex *General Guidelines on Claims*

**Commented [EFOAADPA1]: Comment (250) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:52)**

The definition of 'food information' should be aligned with that used in the Guidelines for the sale of pre-packed food products on online marketplaces. In Europe, the EU Regulation 1169/2011 already offers a broad definition of 'food information', which includes, in addition to the information found on the label or in the accompanying materials of the products, also information provided by 'any other means, including tools of modern technology or verbal communication'

**Commented [EFOAADPA2]: Comment (251) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:53)**

Sections 4(1) and 4(2) state that information provided through the use of technologies must not be false, misleading or deceptive, nor must it contain words, images or symbols which suggest a link with another product. Therefore, we believe these sections satisfy the intent in section 3, entitled 'General Principles' of the GSLPF.

**Commented [EFOAADPA3]: Comment (252) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:53)**

The term 'consumers' in the various regulations concerning food safety refers to the 'final consumer' i.e. the one who 'will not use this product in the context of an operation or business of a food business'. Furthermore, a vulnerable sub-category of consumers, such patients with food allergies, should be considered. If these guidelines refer to the purchase of pre-packaged food, which can also take place by those who do not consume the product directly, such as restaurateurs or caterers, the term 'buyers' is more appropriate and inclusive of the two categories.

**Commented [EFOAADPA4]: Comment (253) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:54)**

Section 5 satisfies the requirements of items 3 (b) (i) and (ii) of the Project Document as it provides that information essential for consumer safety, such as the list of ingredients or the presence of allergens, are not offered solely through the use of technologies. Furthermore, various aspects must be considered in the use of technologies, such as the diffusion of access to these technologies in the specific geographical area.

**Commented [EFOAADPA5]: Comment (254) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:54)**

EFA believes that the draft Guidelines can move to the next stage of the procedure.

**Commented [EFOAADPA6]: Comment (245) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:22)**

EFA endorses the revised statement as it provides for more clarity.

- (3) Food information described or presented using technology shall not conflict with information provided on the label or labelling of the prepackaged food, including when shown in different languages.
- (4) Food Information required to be shown on a label or labelling of a prepackaged food shall not be replaced using technology unless there is certainty that the [purchaser or] consumer can readily access that information. Refer to Section 5 for considerations in determining the appropriate use of technology to provide food information.
- (5) Where food information is provided using technology, the reference on the label or labelling should link directly to this information and the food information should be available for the duration of the food's shelf life.
- (6) Food information described or presented using technology should be readily accessible to [purchasers or] consumers without having to provide or disclose information that is used to identify an individual.
- (7) When the label or labelling of a prepackaged food references food information to be accessed using technology, sufficient information shall be displayed on the technology platform to enable [purchasers or] consumers to ascertain that the food information pertains to that prepackaged food.
- (8) If the purpose of the reference on the label or labelling of the prepackaged food is not self-explanatory to [purchasers or] consumers, it should be accompanied by an explanation of how to use it or the type of food information that will be found when used (e.g. "scan here for more information on ingredients").
- (9) The reference and any explanatory statement shown on the label or labelling that links to food information to be accessed using technology should adhere to sections 8.1.2 and 8.1.3 of the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985).
- (10) Food information described or presented using technology shall be clear, prominent and readily legible to the [purchaser or] consumer under normal settings and conditions of use of the technological platform.
- (11) Food information described or presented using technology shall be shown in a language that is acceptable to the [purchaser or] consumer for whom it is intended.

##### 5. Considerations in determining the appropriate use of technology to provide food information

The following factors are for use in considering if mandatory food labelling information can be provided using technology instead of the label or labelling, or if food information that is not required on the label or labelling should be provided using technology:

- (1) There should be sufficient technological infrastructure to support providing food information using that technology within the geographic area or country where the food is sold, such as in regards to prevalence and reliability of service.
- (2) The general population, or a sub-set of the population for whom the food information is intended, should have widespread and equal access to the technology in that geographic area or country, and have adopted its use.
- (3) Food information concerning health and safety (e.g. ingredients, allergens, expiration dates) should not be provided exclusively using technology if its absence on the label or labelling could cause injury to the health of a consumer.
- (4) Food information that is necessary at the time of sale of the physical product to make an informed purchasing decision should not be provided exclusively using technology. However, food information that would meet the consumer's information needs if provided during the use of the product may be eligible to be provided using technology.
- (5) Food information that relates to a specific physical product (e.g. lot code, best before date) should not be provided using technology if doing so would compromise the ability to relate the information to the individual product.

**Commented [EFOAAADPA7]: Comment (246) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:41)**

EFA believes that the revised version of this paragraph remains problematic and cannot support it. As it is now, the provision implies that whether an information can be replaced or not by electronic means depends on the level of 'certainty that the consumer can readily access that information'. But who determines certainty, and under what criteria? Generally, the level of 'certainty' is complex to define, as it depends both on individual factors and electronic means. It should be the duty of the seller to always provide the information, and not for the consumer to prove that they can access it. And, at any rate, health and safety information cannot be provided exclusively via electronic means.

**Commented [EFOAAADPA8]: Comment (247) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:44)**

EFA is concerned over the following clause: 'if its absence on the label or labelling could cause injury to the health of a consumer'. We believe that under no circumstances must information concerning health and safety e.g. allergens be provided exclusively via technology. After all, every food can cause injury to the consumer. Technology is a useful tool to inform about food ingredients and allergens, but must be always complementary to the full information on allergens that appears in the label. This includes also information that is voluntary in most jurisdictions (including the EU) such as Precautionary Allergen Labelling.

**Commented [EFOAAADPA9]: Comment (248) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:48)**

At EFA we believe that this provision needs further clarification, because the way it is written now it might be misleading. For example, regarding the clause that 'food information that would meet the consumer's information needs if provided during the use of the product may be eligible to be provided using technology', does this indicate an exclusivity of technology or not?

- (6) In the case of food information that would normally be required on the label if not for certain constraints, such as the size or nature of the package, consideration should be given to the use of technology to provide consumers with access to that information.
- (7) In the case of food information that is normally required on the label but for which temporary exemptions have been granted, such as in the case of emergency situations, consideration should be given to the use of technology to provide consumers with access to that information for the duration of the temporary exemption.
- (8) In the case of food labelling information that is not accessible under all conditions of sale (such as a vending machine) or by all demographics of consumers (such as those with visual impairments), consideration should be given to the use of technology to facilitate consumer access to that information.

**Commented [EFOAADPA10]: Comment (249) by European Federation of Allergy and Airways Diseases Patients' Associations (14 Apr 2023 10:51)**

EFA believes that, with regards to information concerning health and safety, such exemptions must not lead to the provision of information exclusively by digital means. Further clarification is needed in this provision.