

# **Questions and Answers on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers**

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## **1 Introduction**

On 25 October 2011, the European Parliament and the Council adopted Regulation (EU) No 1169/2011 on the provision of food information to consumers (hereinafter, the 'FIC Regulation'). The FIC Regulation modifies existing food labelling provisions in the Union to allow consumers to make informed choices and to make safe use of food, while at the same time ensure the free movement of legally produced and marketed food.

It entered into force on 12 December 2011. It shall apply from 13 December 2014, with the exception of the provisions concerning the nutrition declaration which shall apply from 13 December 2016.

Following an informal working practice, the Commission's Health and Consumer Directorate General has set up a Working Group with experts from Member States in order to provide answers to a series of questions concerning the application of the Regulation.

This document aims at assisting all players in the food chain as well as the competent national authorities to better understand and correctly apply the FIC Regulation. However, it has no formal legal status and in the event of a dispute, ultimate responsibility for the interpretation of the law lies with the Court of Justice of the European Union.

## 2 General Labelling

### 2.1 ***Availability and placement of mandatory food information (Articles 6, 8, 12, 13 and 37 of the FIC Regulation)***

#### 2.1.1 **In the case of prepacked food, mandatory food information must appear either on the package or on the label attached thereto. What kind of labels may be used for that purpose?**

In the case of prepacked foods, mandatory food information shall appear directly on the package or on a label attached thereto. Label is defined as any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to the packaging or container of food.

Labels must be easily visible, clearly legible and, where appropriate, indelible. Mandatory food information must not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter of any other intervening material. Therefore, labels must not be easily removable so as to jeopardise the availability or the accessibility of the mandatory food information to the consumer. Furthermore, to ensure that the space available on the food labels is used by food business operators in a balanced way, the legislation requires that voluntary food information must not be displayed to the detriment of the space available for mandatory food information.

Any types of labels that are considered to satisfy the above-mentioned criteria may be used. In the case of peel-off labels attached on the package, a case-by-case assessment can be carried out to assess whether the general requirements on the availability and placement of the mandatory information are fulfilled. Particular attention should be paid to whether the food information provided on such type of labels can be easily found.

#### 2.1.2 **In the case of a 'multipack' package consisting of individually packed items which are sold by producers to wholesalers/retailers, should the mandatory particulars required under Articles 9 and 10 of the FIC Regulation appear on each individually packed item?**

This transaction concerns a stage prior to sale to the final consumer where the sale/supply to mass caterers is not involved. In such a case, the mandatory particulars required under Articles 9 and 10 of the FIC Regulation shall appear in one of the following places:

- On the prepackaging [*i.e.* on the 'multipack' package]; or,
- On a label attached thereto; or,
- On the commercial documents referring to the foods, where it can be guaranteed that such documents either accompany the food to which they refer or were sent before or at the same time as delivery. In such cases, however, the following particulars

must also appear on the external packaging in which the prepacked foods are presented for marketing:

- The name of the food;
- The date of minimum durability or the 'use by' date;
- Any special storage conditions and/or conditions of use;
- The name or business name and address of the responsible food business operator.

Therefore, each individually packed item need not to be labelled as such.

However, if the wholesaler/retailer decides to sell the individually packed items to the final consumer, he must ensure that the mandatory particulars required under Articles 9 and 10 of the FIC Regulation appear on each one of them, on the basis of the information appearing on the prepackaging or on a label attached thereto or on the accompanying commercial documents.

### **2.1.3 In the case of a 'multipack' package sold to mass caterers in the context of Article 8(7) of the FIC Regulation and consisting of individually packed items, where shall the mandatory particulars required under Articles 9 and 10 of the FIC Regulation appear?**

In the case of a 'multipack' package to be sold to mass caterers and consisting of individually packed items, the mandatory particulars must appear directly on the 'multipack' package or on a label attached thereto.

However, if the individually packed items (within the 'multipack package') are units of sale destined for the final consumer, the mandatory information must appear on each individual item as well.

If the largest surface of these individual items is less than 10 cm<sup>2</sup>, the mandatory information that must appear on the package or on the label is limited to the following:

- the name of the food;
- any ingredient or processing aid listed in Annex II or derived from a substance or product listed in Annex II causing allergies or intolerances used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form;
- the net quantity of the food;
- the date of minimum durability or the 'use by' date.

The list of ingredients is to be provided through other means or to be made available at the request of the consumer.

Considering the different forms of delivering food to the final consumer in catering establishments, it should be noted that portion-cups (e.g. jams, honey, mustard) which are presented as part of a meal to the guests of mass caterers should not be considered

as units of sale. Therefore, it would be sufficient that, in such cases, the food information appear on multipacks.

(N.B. In any case, mandatory allergen information must be made available for the final consumer).

## **2.2 *List of mandatory particulars (Article 9 of the FIC Regulation)***

### **2.2.1 As far as the 'instructions for use' are concerned, can a food business operator use the symbol of a pan or an oven without the words 'pan' or 'oven'?**

No, it is not possible. Mandatory particulars such as the instructions for use must be indicated with words and numbers. The use of pictograms or symbols is only an additional means to express such particulars.

However, the Commission may adopt in the future delegated/implementing acts allowing one or more mandatory particulars to be expressed by means of pictograms or symbols instead of words or numbers.

## **2.3 *Definition of the 'largest surface area' as regards the minimum font size for the presentation of mandatory particulars (Article 13(3), the omission of certain mandatory particulars (Article 16(2) and the nutrition declaration exemption (Annex V, point 18)***

### **2.3.1 How is the 'largest surface area' being determined, especially with respect to cans or bottles?**

In the case of rectangular or box-shaped packages, the determination of the 'largest surface area' is straightforward; *i.e.* one entire side of the package concerned (height x width).

However, for cylindrical shapes (e.g. cans) or bottle-shaped packages (e.g. bottles) which often have uneven shapes, the determination of the largest surface is more complex. A pragmatic way to clarify the concept of 'largest surface' for cylindrical- or bottle-shaped packaging, with often uneven shapes, could be, for example, the area excluding tops, bottoms, flanges at the top and bottom of cans, shoulders as well as necks of bottles and jars.

## **2.4 Allergen Labelling [for prepacked food] (Article 21(1)(b) and Annex II)**

### **2.4.1 If the name of an ingredient partly includes the name of a substance/product causing allergies or intolerances in a single word (e.g. the German word 'milchpulver' for 'milk powder'), should the entire name of the ingredient be highlighted or just the part referring to the substance/product causing allergies or intolerances (*milchpulver* or *milchpulver*)?**

When listing the ingredients, food business operators must emphasise the name of the substance/product that corresponds to the one listed in Annex II to the FIC Regulation. Hence, the part of the name of the ingredient that corresponds to the substances/products listed in Annex II should be high-lighted (e.g. '**milchpulver**'). However, in the spirit of a pragmatic approach, high-lighting the entire name of the ingredient concerned (e.g. '**milchpulver**') would also be considered as complying with the legal requirements.

Obviously, when the name of an ingredient consists of several separate words, only the substance/product causing allergies or intolerances should be emphasised (e.g. 'poudre de **lait**', '**latte** in polvere').

### **2.4.2 In cases where all the ingredients of a food are substances or products causing allergies or intolerances as listed in Annex II of the FIC Regulation, how can their presence be emphasised?**

If all the ingredients of a food are substances causing allergies or intolerances, they must all be indicated in the list of ingredients and be emphasised. There is certain flexibility as regards the means for ensuring this emphasis, for example by means of the font, style or background colour. If all the ingredients are in the Annex II list, they need to be highlighted against other mandatory information such as the word 'ingredients' where it introduces the ingredients list.

The emphasis on substances causing allergies or intolerances in the list of ingredients ensures that consumers continue to check the list of ingredients. So, consumers suffering from a food allergy or intolerance (especially triggered by substances that are not listed in the FIC Regulation, as e.g. peas) will be able to make informed choices, which are safe for them.

### **2.4.3 In the case of food packaging or containers the largest surface of which has an area of less than 10cm<sup>2</sup>, how is the presence of substances or products causing allergies or intolerances in the food concerned to be indicated?**

In the case of food packaging or containers the largest surface of which has an area of less than 10 cm<sup>2</sup>, the list of ingredients can be omitted. However, in the absence of a list of ingredients, it is mandatory to indicate the presence of substances or products causing allergies or intolerances in the food concerned by including the word 'contains' followed by the name of the substance or product causing allergies or intolerances.

The general rule, according to which the presence of substances or products causing allergies or intolerances does not need to be indicated where the name of the food clearly refers to the substance or product concerned applies also in this case. Similarly, no highlighting or other emphasis of the substances or products causing allergies or intolerances is needed in such a case.

## **2.5 Allergen Labelling [for non-prepacked food] (Article 44)**

### **2.5.1 Can a food business operator provide information on substances or products causing allergies or intolerances used in the manufacture or preparation of a non-prepacked food, only and simply upon request by the consumer?**

No. The provision of allergen/intolerance information, where substances in Annex II are used in the manufacture of a non-prepacked food, is mandatory. It must be available and easily accessible, so the consumer is informed that the non-prepacked food raises issues relating to allergens and intolerances. Therefore, it is not possible to provide allergen/intolerance information only and simply upon request by the consumer.

### **2.5.2 Can a food business operator provide information on substances or products causing allergies or intolerances used in the manufacture or preparation of a non-prepacked food by means other than a label, including modern technology tools or verbal communication?**

Member States may adopt national measures concerning the means through which information on allergens is to be made available. In principle all means of communication as regards the provision of food information, including allergen/intolerance information, are allowed to enable the consumer to make an informed choice, e.g. a label, other accompanying material, or any other means including modern technology tools or verbal communication (i.e. a verifiable oral information).

In the absence of national measures, the provisions of the FIC Regulation concerning prepacked food are applicable to non-prepacked food as regards the labelling of substances or products causing allergies or intolerances. Therefore, this information must be easily visible, clearly legible and, where appropriate, indelible. This means that information on allergens/intolerances must be provided in a written form as long as Member States have not adopted specific national measures.

### **2.5.3 Can Member States allow, through national measures, the provision of information on substances or products causing allergies or intolerances used in the manufacture or preparation of a non-prepacked food, only and simply upon request by the consumer?**

The provision of allergen information 'upon request' is not to be considered as a 'means of providing information'. However, in a spirit of a pragmatic approach, indicatively, national measures may stipulate that detailed allergen/intolerance information regarding the manufacture or preparation of a non-prepacked food may be given upon

request by the consumer, provided that the food business operator indicates in a conspicuous place and in such a way as to be easily visible, clearly legible and, where appropriate, indelible, that such information can be obtained upon request. This combination would already indicate to the consumer that the non-prepacked food concerned raises issues relating to allergen/intolerances and that such information is available and easily accessible.

## **2.6 Distance selling (Articles 8 and 14)**

### **2.6.1 Where foods are offered for sale by means of distance selling, who (a) is accountable for giving the information to consumers and (b) is responsible for the presence and accuracy of the food information?**

The food business operator responsible for the food information is the operator under whose name or business name the food is marketed. The operator must ensure the presence and the accuracy of the food information provided.

Where foods are offered for sale by means of distance selling, the responsibility for providing mandatory food information before the purchase is concluded lies with the owner of the website.

### **2.6.2 Where food is marketed by means of distance selling, what kind of information should the responsible food business operator provide and at what stage?**

A distinction should be made between prepacked food<sup>1</sup> and non-prepacked food offered for sale by means of distance selling.

#### ➤ **With respect to prepacked food:**

**Before the purchase is concluded**, the responsible food business operator is required to make available all **mandatory food information**,<sup>2</sup> except for **the date of minimum durability or the 'use by' date**. The definition of 'mandatory food information' includes all information that is required to be provided to the final consumer by EU law in general, and not just limited to the FIC Regulation. The mandatory food information should either appear on the material supporting the distance selling or be provided through other appropriate means clearly identified by the food business operator without any supplementary costs for the final consumer.

In addition, **at the moment of delivery**, the responsible food business operator is required to make available all **mandatory particulars** (including the date of minimum durability or the 'use by' date).

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<sup>1</sup> 'Prepacked food' is defined in Article 2(2)(e) of the FIC Regulation.

<sup>2</sup> 'Mandatory food information' is defined in Article 2(2)(c) of the FIC Regulation.

➤ **With respect to non-prepacked food:**

The food business operator is required to provide only allergen information, unless national measures require the provision of all or some of the particulars referred to in Articles 9 and 10 of the FIC Regulation. The allergen information or any other particulars required by national law should be provided (a) **before the purchase is concluded** by either appearing on the material supporting the distance selling or through other appropriate means clearly identified by the food business operator without any supplementary costs for the final consumer and (b) **at the moment of delivery**.

**2.6.3 Where prepacked food is marketed by means of distance selling, does the food business operator need to provide the 'lot number' before the purchase is concluded, in accordance with Directive 2011/91/EU?**

'Mandatory food information' covers all particulars that are required to be provided to the final consumer by Union provisions. The 'lot number' is laid down in Directive 2011/91/EU of the European Parliament and of the Council of 13 December 2011 on indications or marks identifying the lot to which a foodstuff belongs. However, this information is not destined for the final consumer. It is mainly a tool to ensure traceability and does not affect consumers' choice. As such and in the context of a pragmatic approach, there should be no obligation for this information to be provided before the purchase is concluded.

**2.7 List of ingredients (Articles 18 and 20)**

**2.7.1 Should engineered nanomaterials be labelled in the list of ingredients? Are there any exemptions?**

All ingredients present in the form of engineered nanomaterials must be clearly indicated in the list of ingredients. The names of such ingredients must be followed by the word 'nano' in brackets.

Engineered nanomaterials are not required to be included in the list of ingredients when they are in the form of one of the following constituents:

- food additives and food enzymes:
  - whose presence in a given food is solely due to the fact that they were contained in one or more ingredients of that food, in accordance with the carry-over principle referred to in points (a) and (b) of Article 18(1) of Regulation (EC) No 1333/2008 and they serve no technological function in the finished product; **or**,
  - which are used as processing aids;
- carriers and substances which are not food additives but are used in the same way and with the same purpose as carriers, and which are used in the quantities strictly necessary;



- substances which are not food additives but are used in the same way and with the same purpose as processing aids and are still present in the finished product, even if in an altered form.

## **2.8 *Transitional measures (Article 54)***

### **2.8.1 Can food business operators place on the market products labelled in accordance with the FIC Regulation before 13 December 2014?**

Yes, food business operators can place on the market products labelled in accordance with the FIC Regulation before 13 December 2014, provided that there is no conflict with the labelling requirements of Directive 2000/13/EC, which continues to apply until 12 December 2014.

For instance, under Directive 2000/13/EC, the 'best before' date must be in the same field of vision with the name under which the product is sold, the net quantity (for prepackaged foodstuffs) and the actual alcoholic strength by volume (for beverages containing more than 1,2 % by volume of alcohol). Under the FIC Regulation, the 'best before' date no longer needs to be in the same field of vision. If, in that case food business operators complied with the FIC Regulation prior to its entry into application, *i.e.* prior to 13 December 2014, they would be in breach of Directive 2000/13/EC.

## **2.9 *Indication and designation of ingredients (Annex VII)***

### **2.9.1 Is it possible to place on the label a statement: 'rape plant oil or palm plant oil partly hydrogenated' if a producer changes the source of plant oil?**

No, such indication would not comply with the FIC Regulation. It is not possible to display on the label information which is not accurate or specific enough about the characteristics of the food, with the result that the consumer could be misled.

### **2.9.2 Is the list of indication of specific vegetable origin mandatory for any food that contains oils or fats of vegetable origin, regardless of the amount of oil or fat in the food?**

Yes, it is mandatory regardless of the amount of oil or fat in the food concerned.

**2.10** *Date of freezing or date of first freezing in cases where the product has been frozen more than once on the labelling of frozen meat, frozen meat preparations and frozen unprocessed fishery products (Annex III)*

**2.10.1** **Is the date of freezing or the date of first freezing in cases where the product has been frozen more than once mandatory on the labelling of non-prepacked frozen meat, frozen meat preparations and frozen unprocessed fishery products?**

No. The date of freezing is mandatory only on the labelling of prepacked frozen meat, frozen meat preparations and frozen unprocessed fishery products. Member States may decide to extend this requirement to non-prepacked ones.

**2.10.2** **How are 'unprocessed fishery products' defined in the FIC Regulation?**

Fishery products cover all seawater or freshwater animals (except for live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods, and all mammals, reptiles and frogs) whether wild or farmed and including all edible forms, parts and products of such animals. Unprocessed fishery products are fishery products that have not undergone processing, and include products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, , chilled, frozen, deep-frozen or thawed.

**2.10.3** **How shall the date of freezing be expressed?**

The date of freezing or the date of first freezing must be indicated as follows:

- It shall be preceded by the words 'Frozen on...';
- These words shall be accompanied by the date itself or a reference to where the date is given on the labelling;
- The date shall consist of the day, the month and the year in that order and in uncoded form, e.g. 'Frozen on DD/MM/YYYY'.

## **2.11 Indication of the presence of added water accompanying the name of the food (Annex VI, point 6)**

The objective of this requirement is to protect the consumer from unfair and misleading practices with regard to meat and fish products having the appearance of a cut, joint, slice, portion or carcase of meat **or of a cut, joint, slice, portion, filet or of a whole fishery product**, and to which additional water, not justified on technological reasons, has been added during the manufacturing process. Consumers do not expect a significant amount of water to be present in such foods. Addition of water can increase the weight of meats/fish preparations. Therefore, an indication of the presence of added water included in the name of these foods would allow the consumer to distinguish such foods at a glance.

### **2.11.1 In which cases must the name of a food include an indication of the presence of added water exceeding 5% of the weight of the finished product?**

An indication of the presence of added water which makes up more than 5% of the weight of the finished product must be included in the name of the food in the following cases:

- Meat products and meat preparations which have the appearance of a cut, joint, slice, portion or carcase of meat;
- Fishery products and prepared fishery products which have the appearance of a cut, joint, slice, portion, filet or of a whole fishery product.

The determination of whether a food product fulfils these requirements must be carried out on a case-by-case basis primarily by the food business operators and later on by the Member States in the context of control activities. In this regard, the appearance of the food has to be taken into account. Indicatively, foods like sausages (e.g. mortadella, hot dog), black pudding, meat loaf, meat/fish pate, meat/fish balls would not require such indication.

## **2.12 Indication of the net quantity (Annex IX point 4 and 5)**

### **2.12.1 Where the net quantity is provided on the prepacked foods consisting of several individually prepacked items, the size of which can vary, shall a food business operator also indicate the total number of individual packages? Can this refer to an average number?**

Prepacked foods which consist of two or more individual packages which are not regarded as units of sale and which do not contain the same quantity of the same product, shall indicate the total number of these individual packages additionally to the net quantity of whole package.

Where, following good manufacturing practices, the precise indication of the total number of individual packages is not possible because of technical (no piece count control) or other manufacturing constraints, this number can exceptionally refer to the

average number. The term 'approximately' or similar wording/abbreviations could also be used.

**2.12.2 The Regulation provides that 'where the food has been glazed, the declared net weight of the food shall be exclusive of the glaze'. This means that in such cases the net weight of the food will be identical to the drained net weight. Do both 'net weight' and 'drained net weight' need to be indicated on the label?**

Where a solid food is presented in a liquid medium, the drained net weight must be indicated in addition to the net weight/quantity. For the purposes of this point, frozen or deep-frozen water is considered as a liquid medium which will entail the obligation to include in the label information about the net weight as well as about the drained weight. In addition, the Regulation FIC specifies that where a frozen food or quick-frozen food has been glazed, the net weight should not include the glaze itself (net weight without the glaze).

As a consequence, the declared net weight of the glazed food is identical to its drained net weight. Taking this into account as well as the need to avoid misleading the consumer, the following net indications would be possible:

- Double indication:
  - Net weight: X g and
  - Drained weight: X g;
- Comparative indication:
  - Net weight=drained weight = X g;
- Single indication:
  - Drained weight X g
  - Net weight (without glaze) X g

### 3 Nutrition declaration

#### 3.1 *Do the rules on nutrition declaration laid down in the FIC Regulation apply to all foods? (Article 29)*

The rules do not apply to the following foods, which have their own nutrition labelling rules:

- food supplements;
- natural mineral waters;
- foods for particular nutritional uses, unless there are no specific rules relating to particular aspects of nutrition labelling (see also Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses and specific Directives as referred to in Article 4(1) of that Directive).

#### 3.2 *What has to be declared? (Articles 13, 30, 32, 34 and 44 Annexes IV and XV)*

Mandatory nutrition labelling must include all the following particulars, as well as the amount of any nutrient for which a nutrition or other substance for which a nutrition or health claim has been made:

Energy value, and the amounts of fat, saturates, carbohydrate, sugars, protein and salt.

The energy value must be given both in kJ (kilojoules) and in kcal (kilocalories) The value in kilojoules must be given first, followed by the value in kilocalories. The abbreviation kJ/kcal can be used.

The order of presentation of the information shall be as follows:

energy
fat
of which
— saturates,
carbohydrate
of which
— sugars
protein
salt

If space permits, the declaration shall be presented in the form of a table, with numbers aligned. A linear format may be used if space does not allow for the provision of the information in a tabular format.

The rules on minimum font size apply to the nutrition declaration, which has to be printed with characters using a font size where the x-height is equal to or greater than 1,2mm. For packaging or containers whose largest surface is less than 80cm<sup>2</sup>, the x-height has to be minimum 0,9mm. X-height is defined in Annex IV of the FIC Regulation. (N.B. Food in packaging or containers the largest surface of which has an area of less than 25cm<sup>2</sup> is exempt from mandatory nutrition labelling, (see 3.5, point 18 below).

In cases where the energy value or the amount of nutrient(s) in a product is negligible, the information on those elements may be replaced by a statement such as 'Contains negligible amounts of ...' to be indicated in close proximity to the nutrition declaration. (see question 3.15 for the notion of negligible amount).

For non-prepacked foods, the content of the nutrition declaration can be limited to the energy value or the energy value together with the amounts of fat, saturates, sugars, and salt.

### **3.3        *What is the reference quantity for the nutrition declaration? (Articles 32, 33, Annex XV)***

For vitamins and minerals declaration, see question 3.7.

The amounts of nutrients shall be expressed in grams (g) per 100g or per 100ml, and the energy value in kilojoules (kJ) and in kilocalories (kcal) per 100g or per 100ml of the food.

They may be additionally declared per portion/consumption unit of the food. The portion or consumption unit has to be easily recognisable by the consumer, quantified on the label in close proximity to the nutrition declaration, and the number of portions or units contained in the package has to be stated on the label.

In addition, the energy value and the amounts of fat, saturates, carbohydrate, sugars, protein and salt may also be expressed as a percentage of the reference intakes specified in the following table per 100g or per 100ml. In addition to or instead of such a declaration per 100ml or per 100g, the percentages of the reference intakes can be expressed per portion/consumption unit.

<b>Energy or nutrient</b>	<b>Reference intake</b>
Energy	8 400 kJ/2 000 kcal
Total fat	70 g
Saturates	20 g
Carbohydrate	260 g
Sugars	90 g
Protein	50 g
Salt	6 g

When percentages of the reference intakes are expressed per 100g or per 100ml, the nutrition declaration shall include the following statement: 'Reference intake of an average adult (8400kJ/2000kcal)'.

For non-prepacked foods, the nutrition declaration can be expressed on the basis of per portion or per consumption unit alone.

### **3.4 *Can other forms of expression be used? (Article 35)***

In addition to the forms of expression (per 100g/ml, per portion, percentage of the reference intake) and presentation (name of the nutrient, numeric value) set out above, other forms of expression and/or presentation in graphics or symbols can be used, provided:

- they are based on sound and scientifically valid consumer research and do not mislead the consumer;
- their development resulted from a consultation with a wide range of stakeholder groups;
- their aim is to facilitate consumer understanding of the contribution and importance of the food to the energy and nutrient content of a diet;
- in the case of other forms of expression, they are based either on the harmonised reference intakes set out in Annex XIII, or in their absence, on generally accepted scientific advice on intakes for energy or nutrients;
- they are objective and non-discriminatory; and
- they do not create obstacles to the free movement of goods.

### **3.5 What are the exemptions? (Articles 16(4) and 44(1)(b), Annex V)**

The following products are exempted from mandatory nutrition labelling, except when a nutrition or a health claim is made:

1. Unprocessed products that comprise a single ingredient or category of ingredients;
2. Processed products which the only processing they have been subjected to is maturing and that comprise a single ingredient or category of ingredients;
3. Waters intended for human consumption, including those where the only added ingredients are carbon dioxide and/or flavourings;
4. A herb, a spice or mixtures thereof;
5. Salt and salt substitutes;
6. Table top sweeteners;
7. Coffee extracts and chicory extracts, whole or milled coffee beans and whole or milled decaffeinated coffee beans;
8. Herbal and fruit infusions, tea, decaffeinated tea, instant or soluble tea or tea extract, decaffeinated instant or soluble tea or tea extract, which do not contain other added ingredients than flavourings which do not modify the nutritional value of the tea;
9. Fermented vinegars and substitutes for vinegar, including those where the only added ingredients are flavourings;
10. Flavourings;
11. Food additives;
12. Processing aids;
13. Food enzymes;
14. Gelatine;
15. Jam setting compounds;
16. Yeast;
17. Chewing-gums;
18. Food in packaging or containers the largest surface of which has an area of less than 25 cm<sup>2</sup>;



19. Food, including handcrafted food, directly supplied by the manufacturer of small quantities of products to the final consumer or to local retail establishments directly supplying the final consumer;

20. Alcoholic beverages (containing more than 1.2% alcohol);

21. Non-prepacked foods (unless national measures require it).

When the nutrition information is provided voluntarily, it has to follow the rules for mandatory nutrition labelling. However:

- For alcoholic beverages, the nutrition declaration is not mandatory and may be limited to the energy value. No specific format is required;
- For non-prepacked foods, the nutrition declaration may be limited to the energy value or to the energy value and the amount of fat, saturates, sugars and salt. It can be given per portion or consumption unit alone, provided the portion/unit is quantified and the number of portion/unit is given.

### **3.6 *What other nutrients can be declared? (Articles 30(2), 32, 33 and 34, Annex XV)***

The mandatory nutrition declaration may also be supplemented by an indication of the amount of one or more of the following:

(a) mono-unsaturates;

(b) polyunsaturates;

(c) polyols;

(d) starch;

(e) fibre;

(f) vitamins and minerals (see also 3.7 below).

The order of presentation of the information, where appropriate, shall be as follows:

energy
fat
of which
— saturates,
— mono-unsaturates,
— polyunsaturates,
carbohydrate

of which
— sugars,
— polyols,
— starch,
fibre
protein
salt
vitamins and minerals

If space permits, the declaration shall be presented in the form of a table with numbers aligned. A linear format may be used if space does not allow for the provision of the information in a tabular format.

These nutrients shall be declared in grams (g)<sup>3</sup> per 100g or per 100ml, and may be additionally declared per portion or per consumption unit of the product.

For non-prepacked foods, the nutrition declaration can be given per portion or per consumption unit alone.

**3.7 Which vitamins and minerals can be labelled? What are the conditions relating to minimum quantity in the product? What unit should be used for the declaration? (Articles 30(2), 32(2) and (3), and 33(1), Annex XIII)**

Any of the vitamins or minerals listed in the table below can be labelled if present in significant amounts. Significant amount is calculated as follows:

- 15 % of the nutrient reference values specified in the following table supplied by 100 g or 100 ml in the case of products other than beverages,
- 7.5 % of the nutrient reference values specified in the following table supplied by 100 ml in the case of beverages, or,
- 15 % of the nutrient reference values specified in the following table per portion if the package contains only a single portion.

Vitamins and minerals shall be declared using the units specified in the following table, and as a percentage of the reference values specified in the same table, per 100g or per 100ml. This information may additionally be declared per portion/consumption unit.

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<sup>3</sup> See also the specific units of measurement for vitamins and minerals in the table in 3.7

<b>Vitamins and minerals which may be declared</b>	<b>Nutrient reference values (NRVs)</b>
Vitamin A (µg)	800
Vitamin D (µg)	5
Vitamin E (mg)	12
Vitamin K (µg)	75
Vitamin C (mg)	80
Thiamin (mg)	1,1
Riboflavin (mg)	1,4
Niacin (mg)	16
Vitamin B6 (mg)	1,4
Folic acid (µg)	200
Vitamin B12 (µg)	2,5
Biotin (µg)	50
Pantothenic acid (mg)	6
Potassium (mg)	2 000
Chloride (mg)	800
Calcium (mg)	800
Phosphorus (mg)	700
Magnesium (mg)	375
Iron (mg)	14
Zinc (mg)	10
Copper (mg)	1
Manganese (mg)	2
Fluoride (mg)	3,5
Selenium(µg)	55

<b>Vitamins and minerals which may be declared</b>	<b>Nutrient reference values (NRVs)</b>
Chromium (µg)	40
Molybdenum (µg)	50
Iodine (µg)	150

### **3.8      *How can the nutrient content of a food be determined? (Article 31(4))***

The declared values shall be average values based on:

- the analysis of the food;
- a calculation from the known or actual average values of the ingredients used; or,
- generally established and accepted data.

### **3.9      *How can the energy value of a food be determined? (Article 31(1), Annex XIV)***

The energy value shall be calculated using the following conversion factors:

<b>Nutrient</b>	<b>Conversion factor</b>
carbohydrate (except polyols)	17 kJ/g — 4 kcal/g
polyols	10 kJ/g — 2,4 kcal/g
protein	17 kJ/g — 4 kcal/g
fat	37 kJ/g — 9 kcal/g
salatrim	25 kJ/g — 6 kcal/g
alcohol (ethanol)	29 kJ/g — 7 kcal/g
organic acid	13 kJ/g — 3 kcal/g
fibre	8 kJ/g — 2 kcal/g
erythritol	0 kJ/g — 0 kcal/g

**3.10      *Should the nutrient content for the food be declared 'as prepared' or 'as sold'? (Article 31(3))***

The nutrition declaration is required for the food as sold, but, instead and where appropriate, it can relate to the food as prepared, provided sufficiently detailed preparation instructions are given. It is therefore possible to include only the nutrition information 'as prepared' for consumption on foods, such as dehydrated powdered soup.

**3.11      *When can the statement indicating that the salt content is exclusively due to the presence of naturally occurring sodium be used? (Article 30(1))***

The statement indicating that the salt content is exclusively due to the presence of naturally occurring sodium can appear in close proximity to the nutrition labelling on foods to which salt was not added, such as milk, vegetables, meat and fish. Where salt has been added during processing, or as the result of the addition of ingredients that contain salt, e.g. ham, cheese, olives, anchovies etc., the statement could not be used.

**3.12      *Can energy value be provided only in kcal where nutrition information is voluntarily repeated in the principal field of vision? (Article 32(1), Annex XV)***

No. The information on the energy shall systematically be declared, wherever it is provided in both kj (kilojoules) and kcal (kilocalories).

**3.13      *Is it possible to label the content of components of voluntary nutrients e.g. 'omega 3 fatty acids', as components of polyunsaturates? (Article 30)***

No. The nutrition declaration is a closed list of energy value and nutrients and cannot be supplemented by any further nutrition information (but see also point 3.14 below).

**3.14      *The amount of the nutrient or other substance for which a nutrition or a health claim has been made must also be declared. Can it be part of the nutrition declaration? (Articles 30 and 49)***

When the nutrient for which a nutrition or a health claim has been made is part of the nutrition declaration, no additional labelling is required.

When the nutrient or other substance for which a nutrition or a health claim has been made is not part of the nutrition declaration, the amount of the nutrient or other substance must be labelled in close proximity to the nutrition declaration (see also point 3.13 above).

**3.15** *Where a product contains negligible amount(s) of nutrient(s) for which mandatory labelling is required or has a negligible energy value, is it necessary to include such nutrients or energy value in the nutrition table? (Article 34(5))*

No, when the energy value or the amount of a nutrient is negligible, the nutrition declaration for the nutrient can be replaced by a statement such as 'contains negligible amount of ...' in close proximity to the nutrition declaration.

The Guidance on tolerances can help to define what constitutes a negligible amount.

**3.16** *What nutrition information can be repeated on the package? (Articles 30(3), 32(2) and 33)*

Some of the mandatory nutrition labelling information can be repeated on the package, in the principal field of vision (commonly known as 'front of pack'), using one of the following formats:

- energy value, or,
- energy value, and the amount of fat, saturates, sugars and salt.

The rules on minimum font size apply to this repeated declaration (Article 13(2), Annex IV, see also point 3.2).

When repeated, the nutrition declaration remains a list of defined and limited content. No additional information is permitted within the nutrition declaration made in the principal field of vision.

When repeated, the declaration can be made per portion/consumption unit alone (provided the portion/unit is quantified in close proximity to the nutrition declaration and the number of portions/units is labelled on the package). However, the energy value must also be provided per 100g or per 100ml in addition.

**3.17** *When the repeated nutrition information in the principal field of vision ('front of pack') is expressed as a percentage of the reference intakes, does this information also need to appear in the mandatory nutrition declaration ('back of pack')? (Articles 30(3), 32(4) and 33, Annex XIII)*

Voluntarily repeated nutrition information in the principal field of vision ('front of pack') must only contain information on energy alone, or on energy plus fat, saturates, sugar and salt. This information must also be provided in the mandatory ('back of pack') nutrition declaration. However, it is possible to express this front of pack information as percentage of reference intakes (in addition to the absolute values) even if this form of expression is not used in the mandatory nutrition declaration.

### **3.18 *Can the acronym RI be used? (Articles 32 and 33)***

Wherever an acronym is used, e.g. RI for Reference Intake, it should be explained in full somewhere on the package. The statement 'Reference intake of an average adult (8400 kJ/ 2000 kcal)' cannot be modified.

### **3.19 *Can the acronym GDA be used? (Articles 32 and 33)***

The intention of the FIC Regulation is to harmonise the content, expression and presentation of the nutrition information given to consumers, including the voluntary information. In the light of this intention, it is not possible to use the terms Guideline Daily Amount or its acronym GDA in the context of application of Articles 32 and 33 of the Regulation (see also point 3.18). It should also be noted that the notion of reference intake is different from the notion of guideline daily amount, as the term 'reference intake' does not imply a nutritional advice unlike the term 'guideline'. There is no nutritional advice to consume, for example, 20 g of saturated fat per day and consumers should not believe it is a minimum quantity necessary to maintain health.

### **3.20 *Should the additional statement: 'Reference intake of an average adult (8 400 kJ / 2 000 kcal)' be indicated in close proximity of each nutrition declaration? (Articles 32 and 33)***

Yes, when the information is expressed as a percentage of the reference intakes on the basis of 100g or 100ml.

No, when it is expressed on a per portion basis.

### **3.21 *The reference intakes for energy and nutrients are established for adults. Can the energy value and the amounts of nutrients be expressed voluntarily as a percentage of reference intakes for children, instead of or in addition to percentages of reference intakes for adults? (Articles 32(4), 36(3) and 43, Annex XIII)***

No. The voluntary indication of reference intakes for specific population groups is allowed only if Union provisions, or in their absence national rules, have been adopted.

The energy value and the amounts of nutrients can only be expressed as a percentage of reference intakes for adults, in addition to their expression as absolute values. However, the Regulation requests the Commission to adopt implementing acts on the indication of reference intakes for specific population groups in addition to the reference intakes set out for adults, and reference intakes for children may be available in the future. Pending the adoption of such Union provisions Member States may adopt national rules setting scientifically based reference intakes for such population groups. The use of reference intakes for other specific population groups, such as children, will therefore not be allowed after the transition period comes to an end, i.e. from 13 December 2014, unless Union or national rules establish scientifically based reference intakes for such groups.

**3.22** *What is a consumption unit? Can pictograms be used to define a portion? Can the symbol  $\approx$  or  $\sim$  meaning 'approximately equal to' be used to indicate the number of portion in a package? (Article 33)*

The 'consumption unit' shall be easily recognisable by the consumer and means a unit that can be consumed individually. A single consumption unit does not necessarily represent a portion. For example, a square of a chocolate tablet could be the consumption unit, but the portion would be more than one chocolate square.

Symbols or pictogram can be used to define the portion or consumption unit. The FIC Regulation only requires that the consumption unit or the portion be easily recognisable and quantified on the label. In using symbols or pictograms their meaning to the consumer must be clear and not be misleading.

Slight variations in the number of consumption units or portions in a product can be signalled by using the symbol  $\approx$  or  $\sim$  before the number of portions or consumption units.

**3.23** *Can icons alone be used to symbolise nutrients and /or energy instead of words? (Article 34, Annex XV)*

No. Mandatory and voluntary nutrition information must follow a certain format, which requires energy and nutrients to be labelled with their name.

The general principle that mandatory information must be given in words and numbers also applies to cases where nutrition information is given on a voluntary basis. Pictograms and symbols can be used additionally.

**3.24** *Where products are destined for sale in more than one country can nutrition declarations in the format required by the US and Canada be provided in addition to the nutrition declaration which meets requirements of the FIC Regulation? (Articles 30 and 34, Annexes XIV and XV)*

No. A nutrition declaration in the format required by the US and Canada would not be in line with the EU requirements, as both mandatory and voluntary information have to comply with the rules laid down in the FIC Regulation. Such labelling might also mislead the consumer because of the different conversion factors used in the US to calculate energy value and the amount of nutrients.



**3.25** *The amount of 'salt' declared in the mandatory nutrition panel will be calculated using the formula: salt = sodium × 2.5. Must all sodium originating from any ingredient, e.g., sodium saccharin, sodium ascorbate etc. be included in this calculation?*

Yes, the equivalent salt content shall always be derived from the total sodium content of the food product by using the formula: salt = sodium × 2.5.

**3.26** *When do the new rules on nutrition labelling apply? (Articles 49, 50, 54 and 55)*

The new rules on nutrition labelling apply from 13 December 2016. Foods placed on the market or labelled before that date may be marketed until stocks are exhausted. If businesses choose to provide nutrition information on a voluntary basis between 13 December 2014 and 12 December 2016, then it must follow the rules on presentation and content set out in the FIC Regulation.

In the event that a nutrition and/or health claim has been made, or vitamins and/or minerals have been added to a food, the mandatory nutrition declaration must comply with the FIC Regulation from 13 December 2014.

**3.27** *Can operators adapt their labels to the new nutrition labelling rules before 13 December 2014? Would it be possible to opt for a partial adoption to the new rules on nutrition labelling or would adopting one of the provisions require compliance with all of the new provisions? (Articles 54 and 55)*

Yes, food business operators can adopt the new nutrition labelling rules before 13 December 2014, rather than following the rules laid down in Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs. Food business operators opting for the new nutrition labelling rules will have to comply with all of them. For example, if the new rules on the determination of the significant amount for vitamins and minerals are used, all the new rules on nutrition labelling will apply.