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*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

**Commission notice on questions and answers on the application of Regulation (EU) No 1169/2011
of the European Parliament and of the Council on the provision of food information to consumers**

(2018/C 196/01)

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1. Introduction

On 25 October 2011, the European Parliament and the Council adopted Regulation (EU) No 1169/2011 ⁽¹⁾ on the provision of food information to consumers (hereinafter, 'the Regulation'). The 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 to ensure the free movement of legally produced and marketed food. It is applicable since 13 December 2014, with the exception of the provisions concerning the nutrition declaration which are applicable since 13 December 2016.

This notice is intended to assist food business operators and national authorities in the application of the Regulation by providing answers to a series of questions which were raised after the entry into force of the Regulation.

The notice reflects the discussions the Commission's Health and Food Safety Directorate-General (DG SANTE) held with experts from Member States in the context of the Working Group on Regulation (EU) No 1169/2011 on the provision of food information to consumers.

This notice is without prejudice to the interpretation which the Court of Justice of the European Union may provide.

⁽¹⁾ OJ L 304, 22.11.2011, p. 18.

2. General labelling

2.1. Fair information practices

2.1.1. Article 7(1)(d) of the Regulation provides that 'Food information shall not be misleading by suggesting, by means of the appearance, the description or pictorial representations, the presence of a particular food or an ingredient or food, while, in reality, a component naturally present or an ingredient normally used in that food has been substituted with a different component or a different ingredient'. Which type of cases would indicatively fall within the scope of this provision? How food products should then be correctly labelled?

Relevant provisions: Article 2(2)(f), 7(1)(d), Article 13(2), Annex VI, Part A, point 4

The application of Article 7(1)(d) would be triggered where it is considered that the average consumer would expect that a particular food is normally produced with a certain ingredient or a certain ingredient is naturally present in that food although those have been substituted with a different component or a different ingredient.

The following examples can be given:

- a food in which an ingredient normally used in that food has been substituted with a different component or a different ingredient, e.g. a pizza for which the presence of cheese is expected given a picture on the label while cheese has been substituted with another product, named otherwise, made from raw materials used for the purpose of replacing, in whole or in part, milk,
- a food in which a component naturally present in that food has been substituted with a different component or a different ingredient, e.g. product that looks like cheese where the fat of milk origin has been replaced by fat of vegetable origin.

As regards the labelling in the case of foods where a substitution ingredient(s) is used in a product, the name of the product must be followed in close proximity by the name of the substitution ingredient(s), printed on the package or on the label in such a way so as to ensure clear legibility and using a font size which has an x-height of at least 75 % of the x-height of the name of the product and which is not smaller than 1,2 mm.

It is up to the food business operator to find an appropriate name for this substitution food in accordance with the rules concerning the name of the food.

In addition, the provisions of the product-specific legislation in place, where appropriate, must also be respected. For example it is forbidden to use the name 'imitation cheese' because the name 'cheese' is reserved exclusively for milk products ⁽¹⁾.

2.2. Availability and placement of mandatory food information

2.2.1. 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 the purpose of a label attached thereto?

Relevant provisions: Article 2(2)(i), Article 12

Labels must not be easily removable so as to jeopardise the availability or the accessibility of the mandatory food information to the consumer.

In the case of peel-off labels attached on the package, a case-by-case assessment must be carried out to assess whether the general requirements on the availability, accessibility and placement of the mandatory information are fulfilled.

Any types of labels that are considered to satisfy the abovementioned criteria may be used.

2.3. Presentation of mandatory food information and legibility

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

Relevant provisions: Article 13(3), Article 16(2), Annex V, point 18

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

⁽¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and the Council, Annex VII, Part III (OJ L 347, 20.12.2013, p. 671).

In the case of cylindrical shapes (e.g. cans) or bottle-shaped packages (e.g. bottles) which often have uneven shapes, 'largest surface' could be understood as the area excluding tops, bottoms, flanges at the top and bottom of cans, shoulders as well as necks of bottles and jars.

Indicatively, according to the International Recommendation 79 of the International Organisation of Legal Metrology ⁽¹⁾, the area of principal display panel of the package in the case of cylindrical or nearly cylindrical package is determined as 40 % of the product of the height of the package x the circumference excluding the tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles and jars.

2.3.2. How is the font size to be defined for capital letters and numbers?

Relevant provisions: Annex IV

The size of capital letters and numbers must be equivalent to the letter 'A' which begins the word 'Appendix', where the x-height is equal to or greater than 1,2 mm.

2.3.3. Does the mandatory font size, as laid down in Article 13(2), also apply to the additional mandatory particulars required for specific types or categories of foods such as those listed in Annex III?

Relevant provisions: Article 13(2), Annex III

The minimum font size as laid down in Article 13(2) applies only for mandatory particulars listed in Article 9(1).

When the additional mandatory particulars listed in Annex III are displayed in a way that form part of the name of the food, then the mandatory font size requirement, as laid down in Article 13(2), applies.

In the other cases, the mandatory font size does not apply.

2.3.4. Does the mandatory font size, as laid down in Article 13(2), also apply to the mandatory particulars accompanying the name of the food such as those listed in Annex VI, Part A (e.g. 'defrosted', 'smoked', 'irradiated', etc.)?

Relevant provisions: Article 13(2), Annex VI, Part A

Yes, since these mandatory particulars are associated with the name of the food for which the minimum font size provision as laid down in Article 13(2) applies.

Concerning Annex VI, part A, point 4, the Regulation requires a font size which has an x-height of at least 75 % of the x-height of the name of the product which in any case will not be smaller than the minimum font size required in Article 13(2).

2.4. *Mandatory particulars (Article 9 and Section 2 of the Regulation)*

2.4.1. Name of the food

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?

Relevant provisions: Annex VI, Part A, point 6

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.

⁽¹⁾ International Organisation of Legal Metrology, International Recommendation R79 [Edition 1997(E)]. https://www.oiml.org/en/files/pdf_r/r079-e15.pdf

The determination of whether a food product fulfils these requirements must be carried out on a case-by-case basis by the food business operators. 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.

2.4.2. List of ingredients

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

Relevant provisions: Article 18(3) and 20

All engineered nanomaterials used as ingredients must be clearly indicated in the list of ingredients.

Article 20 (b), (c) and (d) lays down exemptions for food additives and food enzymes and carriers and substances from being included in the list of ingredients. The same exemptions also apply when these are in the form of engineered nanomaterials.

- Indication and designation of ingredients

- Is it possible to place on the label a statement: 'rape plant oil or palm plant oil partly hydrogenated' when a producer alternates the source of plant oil?

Relevant provisions: Article 7 and 18, Annex VII, Part A, points 8 and 9

No, such indication would not comply with the 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.

- Is the 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?

Relevant provisions: Article 18, Annex VII, Part A, points 8 and 9

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

2.4.3. Indication of the net quantity

The Regulation provides that 'where the food has been glazed, the declared net weight of the food must 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?

Relevant provisions: Annex IX, point 5

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 quick-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 specifies that where a frozen food or quick-frozen food has been glazed, the net weight must 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 net weight: X g,

- comparative indication:

- net weight = drained net weight = X g,

- single indication:

- net weight (without glaze): X g.

2.4.4. 'Best before' or 'Use by' date

Does cider have to be labelled with a date of minimum durability 'best before'?

Relevant provisions: Article 24, Annex X, point 1(d)

No, cider obtained by fermentation does not need to bear a date of minimum durability as it belongs to the category 'wines, liqueur wines, sparkling wines, aromatised wines, and similar products obtained from fruits other than grapes, and beverages falling within CN code 2206 00 obtained from grapes or grape musts' which is exempted from this obligation.

However, a product obtained by the mixing of alcohol with fruit juice would not be considered as 'similar products obtained from fruit other than grapes' under the abovementioned category and therefore an indication of a date of minimum durability 'best before' would be required unless the product contains 10 % or more by volume of alcohol (the indication of the date of minimum durability 'best before' is not required for beverages containing 10 % or more by volume of alcohol).

2.4.5. Instructions for use

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'?

Relevant provisions: Articles 9(2) and 27

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 implementing acts allowing one or more mandatory particulars to be expressed by means of pictograms or symbols instead of words or numbers.

2.5. *Additional mandatory particulars for specific types or categories of foods*

2.5.1. Labelling of frozen food

— 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?

Relevant provisions: Annex III

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.

— How are 'unprocessed fishery products' defined?

Fishery products⁽¹⁾ 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⁽²⁾ 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, husked, milled, chilled, frozen, deep-frozen or thawed.

— Can the indication 'quick frozen on [DATE]' be used to indicate the date of freezing on frozen meat, frozen meat preparations and frozen unprocessed fishery products?

Relevant provisions: Annex III, point 6 and Annex X, point 3

No, the indication 'quick frozen on ...' cannot be used since Annex X clearly stipulates that the term to be used is 'Frozen on ...'.

⁽¹⁾ Regulation (EC) No 853/2004, Annex I, point 3.1 (OJ L 139, 30.4.2004, p. 55).

⁽²⁾ On the basis of the definition of unprocessed foods laid down in Article 2(1)(n) of Regulation (EC) No 852/2004 of the European Parliament and of the Council (OJ L 139, 30.4.2004, p. 1).

3. Nutrition declaration

3.1. Application of the nutrition declaration

3.1.1. Do the rules on nutrition declaration laid down in the Regulation apply to all foods?

Relevant provisions: Article 29

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

- food supplements ⁽¹⁾,
- natural mineral waters ⁽²⁾.

In relation to foods for specific groups, the Regulation applies without prejudice to rules laid down in Regulation (EU) No 609/2013 of the European Parliament and of the Council ⁽³⁾ or specific measures under that framework.

3.2. Mandatory nutrition declaration

3.2.1. What has to be declared?

Relevant provisions: Articles 13, 30, 32, 34 and 44, Annexes IV and XV

Mandatory nutrition declaration must include all the following particulars: 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 must be as follows:

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

If space permits, the declaration must 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 1,2 mm. For packaging or containers whose largest surface is less than 80 cm², the x-height has to be minimum 0,9 mm. X-height is defined in Annex IV to the Regulation.

⁽¹⁾ Directive 2002/46/EC of the European Parliament and of the Council (OJ L 183, 12.7.2002, p. 51).

⁽²⁾ Directive 2009/54/EC of the European Parliament and of the Council (OJ L 164, 26.6.2009, p. 45).

⁽³⁾ OJ L 181, 29.6.2013, p. 35.

(N.B.: Food in packaging or containers the largest surface of which has an area of less than 25 cm² is exempt from mandatory nutrition labelling (Annex V, point 18, see point 3.6.1 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 point 3.2.2 for the notion of negligible amount).

There are products which are exempted from providing the nutrition declaration (See point 3.6.1).

3.2.2. 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))?

Relevant provisions: 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.

3.2.3. When can the statement indicating that the salt content is exclusively due to the presence of naturally occurring sodium be used?

Relevant provisions: 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 cannot be used.

3.2.4. 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?

Relevant provisions: Annex I, point 11

Yes, the equivalent salt content must always be derived from the total sodium content of the food product by using the formula: salt = sodium × 2,5.

3.3. *Voluntary indications*

3.3.1. What other nutrients can be declared?

Relevant provisions: 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.

The order of presentation of the information, where appropriate, must 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 must 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 must be declared in grams (g) ⁽¹⁾ per 100 g or per 100 ml, and may be additionally declared per portion or per consumption unit of the product.

3.3.2. Where a substance, for which a nutrition or a health claim has been made, is not part of the nutrition declaration, how should this information be declared?

Relevant provisions: 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 the same field of vision, e.g. in close proximity to the nutrition declaration (see also point 3.3.5 below).

3.3.3. When the amount of fibre (or any other nutrient referred to in Article 30(2)) is declared on a non-prepacked food, what are the other nutritional elements that need to be declared?

Relevant provisions: Article 30(1), (2), (5) and Article 49

If a food business operator is interested in declaring the amount of fibre of a product, or the amount of any other nutrient referred to in Article 30(2), then the full nutrition declaration must be given. This comprises:

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

⁽¹⁾ See also the specific units of measurement for vitamins and minerals in Annex XIII, Part A, point 1.

When a nutrition or a health claim relates to any nutrient referred to in Article 30(2), the amount of that nutrient must also be stated in the nutrition declaration.

3.3.4. Is it possible to label the fibre content using a percentage of a reference intake, even if there is no harmonised reference intake laid down in the Regulation for fibre?

Relevant provisions: Article 30(2) and Article 35(1)(e)

No. The only nutrients for which the amount can be expressed as a percentage of a reference intake are the ones for which reference intakes are set out in Annex XIII, even when additional forms of expression and presentation of the nutrition declaration are used.

3.3.5. Is it possible to label the content of components of voluntary nutrients, e.g. 'omega 3 fatty acids', as components of polyunsaturates?

Relevant provisions: 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 3.3.2 above).

3.3.6. What nutrition information can be repeated on the package?

Relevant provisions: Articles 30(3), 32(2), 33 and 34(3)

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 3.2.1).

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 100 g or per 100 ml in addition.

3.3.7. 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')?

Relevant provisions: 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.

3.3.8. Is it possible to repeat the nutrition declaration once in the form of a simple declaration of energy value and another time in the form of energy value together with the amounts of fat, saturates, sugars and salt?

Relevant provisions: Article 30(3) and Article 34(3)

The nutrition declaration can be repeated as the energy value alone or as the energy value together with the amounts of fat, saturates, sugars and salt. It is also possible to repeat this information more than once.

These voluntary additions of the nutrition declaration must appear in the principal field of vision and comply with the provisions on minimum font size.

3.3.9. Is the labelling of the content of a single nutrient allowed on the front of pack, like X % fat?

Relevant provisions: Article 30(3)

The voluntary repetition of the nutrition declaration does not allow the labelling of a single nutrient content, as the information to be provided would be either the energy value alone or the energy value together with the amounts of fat, saturates, sugars and salt.

However, the label can include the declaration of a single nutrient content when this declaration is required by law, such as the fat content of:

- certain drinking milks referred to in Annex VII, Part IV, paragraph III, subparagraph 1 of Regulation (EU) No 1308/2013 of the European Parliament and the Council ⁽¹⁾ establishing a common organisation of agricultural products,
- certain spreadable fats referred to in Annex VII, Part VII, paragraph I and its Appendix II of Regulation (EU) No 1308/2013 establishing a common organisation of agricultural products.

It would also be possible to label indications such as 'low fat' or 'fat < 3 %', provided they comply with the conditions of use of that claim and the other relevant provisions of Regulation (EC) No 1924/2006 of the European Parliament and the Council ⁽²⁾ on nutrition and health claims made on foods and provided that Article 7(1)(c) of Regulation (EU) No 1169/2011 is also respected.

3.3.10. 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 Regulation?

Relevant provisions: Articles 30, 34 and 36, 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 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.

3.4. *Forms of expression and presentation of the nutrition declaration*

3.4.1. What are the forms of expression of the mandatory elements in the nutrition declaration?

Relevant provisions: Articles 32, 33, Annexes XIII and XV

The amounts of fat, saturates, carbohydrate, sugars, protein and salt must be expressed in grams (g) per 100 g or per 100 ml, and the energy value in kilojoules (kJ) and in kilocalories (kcal) per 100 g or per 100 ml 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 100 g or per 100 ml. In addition to or instead of such a declaration per 100 ml or per 100 g, the percentages of the reference intakes can be expressed per portion/consumption unit.

Energy or nutrient	Reference intake
Energy	8 400 kJ/2 000 kcal
Total fat	70 g

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 404, 30.12.2006, p. 9.

Energy or nutrient	Reference intake
Saturates	20 g
Carbohydrate	260 g
Sugars	90 g
Protein	50 g
Salt	6 g

When percentages of the reference intakes are expressed per 100 g or per 100 ml, the nutrition declaration must include the following statement: 'Reference intake of an average adult (8 400kJ/2 000 kcal)'.

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

3.4.2. Can the acronym RI for Reference Intake be used on food labels?

Relevant provisions: Articles 32 and 33

The acronym RI for Reference Intake can be used on food labels provided it is explained in full on the package and can be easily found by the consumers. The statement 'Reference intake of an average adult (8 400 kJ/2 000 kcal)' cannot be modified.

3.4.3. Can the terms 'Guideline Daily Amount' or its acronym GDA be used?

Relevant provisions: Articles 32 and 33

The intention of the 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 3.4.2). 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 it should not be considered by consumers as a minimum quantity necessary to maintain health.

3.4.4. Must the additional statement: 'Reference intake of an average adult (8 400 kJ/2 000 kcal)' be indicated in close proximity of each nutrition declaration?

Relevant provisions: Articles 32 and 33

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

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

3.4.5. 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?

Relevant provisions: 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, are not allowed for products placed on the market or labelled since 13 December 2014, unless Union or national rules establish scientifically based reference intakes for such groups.

3.4.6. What is a consumption unit? Can pictograms be used to define a portion? Can the symbol '≈' or '∼' meaning 'approximately equal to' be used to indicate the number of portions in a package?

Relevant provisions: Article 33

The 'consumption unit' must 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 pictograms can be used to define the portion or consumption unit. The 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 appropriate symbols before the number of portions or consumption units.

3.5. *Additional forms of expression and presentation*

3.5.1. Can icons alone be used to symbolise nutrients and/or energy instead of words?

Relevant provisions: Article 34, Annex XV

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

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.

3.5.2. Can energy value be provided only in kcal where nutrition information is voluntarily repeated in the principal field of vision?

Relevant provisions: Article 32(1), Annex XV

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

3.6. *Exemptions to the mandatory nutrition declaration*

3.6.1. What are the exemptions?

Relevant provisions: Article 16(3) and (4), Article 30(4) and (5) and Article 44(1)(b), Annex V

The products listed in Annex V are exempted from mandatory nutrition labelling, except when a nutrition or a health claim is made.

In addition, the exemption applies to alcoholic beverages (containing more than 1,2 % alcohol) and to non-prepacked foods (unless a specific EU law or a national measure requires 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 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 portions/units is given.

3.6.2. Are the following foods exempted from the requirements of the mandatory nutrition declaration?

Relevant provisions: Annex V

— Unprocessed products that comprise a single ingredient or category of ingredients

— Flour (for example wheat flour) yes, subject to qualifications below

Flour which does not contain any added ingredients, e.g. additives, vitamins, minerals, and which has not undergone any processing other than milling and husking, is considered as an unprocessed product ⁽¹⁾.

— Parboiled rice and pre-cooked rice no

Parboiled rice undergoes a precooking step and therefore cannot be considered as an unprocessed food. However rice benefits from the exemption for unprocessed products that comprise a single ingredient or category of ingredients.

— Vegetable oil no

Vegetable oils are processed products and therefore cannot benefit from the exemption for unprocessed products that comprise a single ingredient or category of ingredients.

— Sugar no

Sugar is a processed product and therefore cannot benefit from the exemption for unprocessed products that comprise a single ingredient or category of ingredients.

— Honey yes

Honey is considered as an unprocessed food and made of constituents and not ingredients, as clarified by Recital 3 of Directive 2014/63/EU of the European Parliament and of the Council ⁽²⁾ amending Council Directive 2001/110/EC ⁽³⁾ relating to honey. Honey can therefore benefit from the exemption from the requirement of the mandatory nutrition declaration.

— A herb, a spice or mixtures thereof

— Herb and spice products containing flavourings and/or acidity regulators yes

Herbs, spices or mixtures thereof are exempted from the requirement of the mandatory nutrition declaration, as they are consumed in small quantities and have no significant nutritional impact on the diet. Similarly, such products containing flavourings and/or acidity regulators benefit from this exemption, provided the flavourings and/or acidity regulators do not have a significant nutritional impact.

— Salt and salt substitutes

— Iodised salt no

Following Article 7(3) of Regulation (EC) No 1925/2006 of the European Parliament and of the Council ⁽⁴⁾ on the voluntary addition of vitamins and minerals and of certain other substances to foods, the nutrition declaration of products to which vitamins and minerals have been added must be compulsory. However, mandatory addition of iodine to salt is not covered by Regulation (EC) No 1925/2006 and specific labelling provisions regarding the amount of iodine added are covered by national legislation.

⁽¹⁾ Article 2(1)(b) of the Regulation makes reference to the definition of ‘unprocessed products’ laid down in Article 2(1)(n) of Regulation (EC) No 852/2004 on the hygiene of foodstuffs: “unprocessed products” means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed’.

⁽²⁾ OJ L 164, 3.6.2014, p. 1.

⁽³⁾ OJ L 10, 12.1.2002, p. 47.

⁽⁴⁾ OJ L 404, 30.12.2006, p. 26.

— Fermented vinegars and substitutes for vinegar, including those where the only added ingredients are flavourings

— Fermented vinegar with added salt no

The exemption for fermented vinegars and substitutes for vinegar is only valid for products to which the only added ingredients are flavourings.

3.7. Food supplements

3.7.1. For food supplements, what terminology in relation to reference values must be used for the declaration of vitamins and minerals?

Relevant provisions: Article 29, Annex XIII

The rules on the nutrition declaration of the Regulation do not apply to food supplements.

Article 8(3) of Directive 2002/46/EC of the European Parliament and of the Council ⁽¹⁾ on food supplements stipulates that information on vitamins and minerals must also be expressed as a percentage of the reference values mentioned in the Annex to Directive 90/496/EEC ⁽²⁾, which was replaced by the Regulation from 13 December 2014.

Directive 90/496/EEC requested the use of a percentage relating it to recommended daily allowances (RDAs), which are replaced in Annex XIII, Part A of the Regulation by daily Reference Intakes or 'nutrient reference values (NRVs)'. While the term 'nutrient reference values' can be used or its acronym 'NRVs' provided that it is explained in full on the package and can be easily found by the consumers, it is advised for reasons of consistency to use the same terminology for food supplements as for other nutrients on foods ⁽³⁾ and to refer to Reference Intakes.

3.7.2. Do food supplements bearing a nutrition or a health claim have to provide a nutrition declaration in accordance with the Regulation?

Relevant provisions: Articles 29 and 49

No. The provisions in the Regulation requiring a nutrition declaration do not apply to food supplements. According to Article 7 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council ⁽⁴⁾ on nutrition and health claims, in the case of food supplements, the nutrition information shall be provided in accordance with Article 8 of Directive 2002/46/EC of the European Parliament and of the Council ⁽¹⁾ on food supplements.

3.8. Specific products

3.8.1. For foods packed with a liquid, should the nutrition declaration correspond to the drained product (without the liquid) or the product in its entirety (with the liquid)?

Relevant provisions: Article 31(3)

Solid foods can be presented in a liquid medium, as defined in paragraph 5 of Annex IX (such as brine, fruit juice) or other liquids (such as oil). Some consumers eat the totality of such products, while others only eat the drained products. In that context, the nutrition declaration should therefore preferably be calculated for the total content of the food product, the solid food and the liquid together, when the product is likely to be consumed in its entirety. This information can be voluntarily supplemented by a nutrition declaration for the drained product. For other products for which the liquid is not expected to be consumed, nutrition information based on the drained net weight appears more relevant.

In any case, the nutrition declaration shall make clear that it refers to the drained products or to the product in its entirety.

⁽¹⁾ OJ L 183, 12.7.2002, p. 51.

⁽²⁾ OJ L 276, 6.10.1990, p. 40.

⁽³⁾ Article 32(3) of Regulation (EU) No 1169/2011.

⁽⁴⁾ OJ L 404, 30.12.2006, p. 9.