



JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON FOOD LABELLING

Forty-seventh Session
Gatineau, Quebec, Canada
15 – 19 May 2023

PROPOSED DRAFT GUIDELINES ON THE USE OF TECHNOLOGY TO PROVIDE FOOD INFORMATION: AMENDMENT TO THE GENERAL STANDARD FOR THE LABELLING OF PREPACKAGED FOODS

Prepared by the EWG chaired by Canada

Codex members and Observers wishing to submit comments on the recommendations in this document should do so as instructed in CL 2023/8/OCS-FL available on the Codex webpage/Circular Letters:

<http://www.fao.org/fao-who-codexalimentarius/resources/circular-letters/en/>

INTRODUCTION

1. At the 44th Session of the Codex Committee on Food Labelling (CCFL44), the Committee considered potential work based on the Discussion Paper on Future Work and Direction for CCFL, (CX/FL 17/44/9) that covered previously identified, current, and potential work for the Committee. Broad support was received for the item “Innovation – use of technology in labelling”, which was described as new approaches for providing consumers information about the foods they buy.
2. The Committee agreed that a discussion paper would be developed and prepared by Canada. It was further agreed that information would be sought through a Circular Letter (CL) on current practices, issues and any potential roles for CCFL.
3. At the 45th Session of CCFL, Canada introduced the discussion paper [CX/FL 19/45/9](#). The Committee expressed general interest on the topic of innovation and technology in food labelling, while noting several considerations, including the need to clarify the distinction between this work and that on internet sales/e-commerce.
5. As a result, the Committee agreed that Canada would prepare a revised discussion paper to further clarify the scope of potential work on innovation and technology in food labelling, taking into account the discussions held at CCFL45 and to consider preparing a project document for consideration by CCFL46. It was again agreed that information would be sought through a CL, to provide information to help in the development of the discussion paper.
6. [CL 2019/82-FL](#) was issued in July 2019, as agreed to at CCFL45. After the postponement of CCFL46 due to the COVID-19 pandemic, additional information was sought in November 2020 through [CL 2020/57-FL](#), seeking confirmation of conclusions drawn from the first CL (2019/82-FL) and input on potential next steps. Responses to the CL were used to guide the development of this discussion paper and project document on the proposal for new work for consideration at CCFL46 (September 2021).
7. CCFL46 agreed to start new work on the use of technology in food labelling and to submit the project document ([REP 21/FL, Appendix V](#)) for approval by CAC44, which did approve the proposal for new work in November 2021. CCFL46 also agreed to establish an electronic working group (EWG), chaired by Canada, to prepare a proposed draft text for circulation for comments at Step 3 and consideration by CCFL47. The draft text is found in Appendix II.

PARTICIPATION AND METHODOLOGY

8. The EWG was formed under the name used for the discussion paper: *Innovation – use of technology in labelling*. Then Canada, as eWG Chair, prepared a first draft of the guidelines based on the project document and discussion at CCFL, and changed the name of the guidelines to *Use of technology to Provide Food Information* to better reflect the nature of the guidelines and the distinction between labelling and similar information that is provided through technology.

9. Two rounds of consultations were conducted within the EWG and several comments were received. The complete list of participants is in Appendix III.

10. The Chair of the EWG considered all the discussions/comments received from EWG members during the consultations in the development and updating of the *proposed Guidelines on the Use of Technology to Provide Food Information*.

10. The summary of discussion is presented in Appendix I.

CONCLUSIONS AND RECOMMENDATION

11. CCFL47 is invited to:

- a) consider the *Proposed Draft Guidelines on the use of technology to provide food information* (Appendix II), and to:
 - i. agree that the proposed definition of “food information” should align with the same term used in the CCFL EWG on e-commerce/internet sales;
 - ii. agree that 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. discuss whether a reference to “purchasers” is needed, or if “consumers” is sufficient; and
 - iv. consider if the criteria in Section 5 of the Proposed Draft Guidelines in Appendix II address items 3 (b)(i) and (ii) of the Project Document for this work.
- b) consider whether the Proposed Draft Guidelines are ready to advance to Step 5 in the Codex step procedure.

APPENDIX I

SUMMARY OF DISCUSSION

First Round of Consultation: Key Points

Canada provided the first draft of proposed *Guidelines on the Use of Technology to Provide Food Information* to EWG members in January 2022. These draft guidelines reflected the Discussion Paper (CX/FL 21/46/9) and Project Document (REP 21/FL, Appendix V) supported by members at CCFL46 and the Report of CCFL46 (REP21/FL). In addition to inviting general comments on all sections of the draft guidelines, comments on seven specific questions were requested. The answers were used to update/improve the draft guidelines.

During the development of this draft, the following considerations were noted to help guide EWG members' review:

- The Project Document proposed to address the application of the General Principles in Section 3 of the *General Standard for the Labelling of Prepackaged Foods* (GSLPF) to labelling information provided using technology directly in the GSLPF. However, during the development of draft text, it was determined that this could have impacts on the Scope and other sections of the GSLPF beyond what was originally envisioned. As such, it was explained that the intent of this objective (item (a) in the Project document) is covered by sections 4(1) and (2) of the draft guidelines.
- In addition to the above, the draft guidelines were also written to cover objective 3(b) of the Project Document, to develop broad criteria and guidance respecting the use of technology in food labelling.
- It was acknowledged that the term 'food information' also appeared in the draft text of the EWG on e-commerce/internet sales. As the intent behind the term is consistent for both EWGs, the chair of this EWG committed to coordinating with the chair (UK) of the e-commerce EWG, in order to achieve consistency across texts. Communication therefore continued between the two EWG Chairs to meet the objective of a common definition of 'food information'.

Feedback on the First Round of Consultation**General**

An overall comment that was repeated by several members was that consumer access to mandatory label information remains important, and that the guidelines must ensure that technology does not replace the physical label until sufficient access is available.

There were also comments regarding the need for criteria to determine if and when technology would be appropriate to provide mandatory label information, as well as several comments suggesting what those criteria should be.

- To address this, section 5 was added to the draft guidelines to outline factors to consider when determining if technology is an appropriate way to provide information.

Various editorial suggestions to the draft guidelines were proposed during the first consultation and were incorporated when possible.

Scope

EWG members were asked if these guidelines should apply only to food information provided through technology that is referenced or linked from a physical label, or to ALL food information on electronic, digital or other technology platforms. The majority of respondents believed that the guidelines should be limited to food information provided through technology that is referenced on the label, such as through a link encoded in a QR code, an equivalent on or near the marketed product, or a website referenced on the label. The main reason for this thinking is that what is on the label and referenced from the label is within the regulated party's control, and limiting the application in this way would avoid having 3rd parties be subject to the guidelines.

Those who suggested the guidelines should apply more broadly to any food information provided through technology noted that this would better protect consumers and facilitate trade, as it would require that

information provided through technology be truthful and not misleading regardless of whether the label links to that information.

- Based on the majority of responses, the revised draft guidelines following the first consultation limited the scope to food information provided using technology that is referenced on the label. In addition, it was noted that the *General Guidelines on Claims* (CXG 1-1979) and *Guidelines for the Use of Nutrition and Health Claims* still apply to food information provided using technology by a 3rd party, or by a company that did not include a link on its label. These texts also prevent false and misleading labelling and apply to advertising, including information on websites.

There were some comments on whether this text should apply to information that is provided voluntarily, though both were included in the project document. Other comments suggested that these guidelines should specifically scope out foods sold through e-commerce. This was not seen as possible as the same product may be sold by e-commerce and provide information to consumers using technology that is referenced on the label.

Comments were also received proposing that **technology**, as described in the scope section, should be defined.

- The Chair proposed that members focus on the meaning of technology for the purpose of these draft guidelines, and determine the appropriate placement (scope or definition) as a next step. Adjustments were made to the description of what technology means in the scope statement based on feedback, for clarity.

Definitions

Overall, EWG members supported the proposal to align the definition of “food information” with the same term used in the EWG on e-commerce. There was also general support for the draft definition itself. Any language about the information being referenced on the label was included in the text of the draft guidelines where appropriate, as opposed to in the definition.

Gaps

During the first round of consultation, it was suggested that a principle on the duration of the availability of the information provided by technology was needed, so that the reference on the label of the physical product will continue to function.

- A new principle was added to address this point.

On “standing the test of time”

Most respondents said that these guidelines should be conceptual. They suggested that as long as the guidelines speak to concepts and principles, and do not attempt to be unnecessarily specific (such as about types of technologies) or prescriptive, then these should stand the test of time. It was also recommended that the guidelines continue to be as technology-neutral as possible, remain flexible and use general wording.

Respondents cautioned against using terminology referring to specific types of technology that may become outdated as technology changes (e.g. ‘machine readable codes’ initially stated in principles 9 &10).

- Editorial revisions to the draft guidelines were made with an aim to avoid references to specific types of technologies or to other aspects that may change over time.

Second Round of Consultation: Key Points

Canada issued the second draft of proposed *Guidelines on the Use of Technology to Provide Food Information* to EWG members in June 2022. A summary of feedback received on the questions posed and on any additional feedback, as summarized above, was also shared at this time.

Feedback on the Second Round of Consultation

- Various editorial adjustments were made to clarify or simplify text based on member input.

- Some commented that the description of technology in the Scope section should specify that technology is limited to that which is linked to a retail product. In practice, when food labels include a link to a website, the website itself does not always refer back to a retail product.
 - This change was not made, as it could create a loophole in the draft Guidelines.
- The previous draft included text related to Codex Committees using these guidelines. This was based on the understanding that these guidelines could be used by Codex Committees when they are in the process of establishing labelling requirements during the course of their work and determining how this labelling information could be provided. This text generated many comments that competent authorities should be the ones determining the appropriate use of technology to provide food information within their country, and that this is who the guidelines are primarily intended for.
 - Based on these comments, the intended audience was removed from the draft, as it was determined to be unnecessary to maintain understanding.
- There were some comments on various sections of the draft suggesting that “purchaser or consumer” was duplicative and only mentioning consumers was necessary. At this time, “purchaser” **has been placed in square brackets throughout the text.**
 - Canada notes that the project document ([REP21/FL, Appendix V](#)) states that the scope of work is prepackaged foods for the consumer or for catering purposes, in line with the scope of the GSLPF. As such, the draft guidelines apply to “consumers” and “purchasers” of “prepackaged foods”, and the meaning of these terms are based on and consistent with those of GSLPF.
 - “Purchasers” includes persons purchasing prepackaged foods for catering purposes, who are not covered by the GSLPF definition of “consumer”.
 - “Consumer” means persons and families purchasing and receiving food in order to meet their personal needs.
 - “Foods for Catering Purposes” means those foods for use in restaurants, canteens, schools, hospitals and similar institutions where food is offered for immediate consumption.
 - “Prepackaged” means packaged or made up in advance in a container, ready for offer to the consumer, or for catering purposes.
- There were various comments about **Section 5** and whether it is needed. Section 5 was added based on the previous round of consultation, when there were comments that the draft Guidelines were lacking criteria on the type of information that could be provided using technology. Section 4 provides principles to follow in cases when technology is used, whereas Section 5 is intended to inform when technology is appropriate to be used.
 - Section 5 was retained in this latest draft, recognizing that further discussion on this section may be needed.

Appendix II

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 foods¹.

2. Scope

These guidelines apply to food information that is accessed using technology via a reference on a prepackaged food's label or labelling². 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.³
- (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.
- (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

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

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

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

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.
- (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.

Appendix III

List of Participants

Members
Argentina
Australia
Brazil
Canada
Columbia
Dominican Republic
Egypt
El Salvador
European Union
France
Greece
Guatemala
Honduras
India
Indonesia
Japan
Malaysia
Morocco
New Zealand
North Macedonia
Paraguay
Philippines
Republic of Korea
Russian Federation
Sweden
Switzerland
The Netherlands
Uruguay
USA

Observers
Eurocare
European Consumer Organisation (BEUC)
European Federation of Allergy and Airways Diseases Patients' Associations (EFA)
Food Industry Asia (FIA)
International Alliance of Dietary/Food Supplement Associations (IADSA)
International Chewing Gum Association (ICGA)
International Confectionery Association (ICA)
International Council of Beverages Associations (ICBA)
International Dairy Federation (IDF)
International Fruit and Vegetable Juice Association (IFU)
International Special Dietary Foods Industries (ISDI)
Organisation Internationale de la Vigne et du Vin (OIV)
World Public Health Nutrition Association (WPHNA)