

CODEx ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Item 7

FL/47 CRD04

Original Language Only

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEx COMMITTEE ON FOOD LABELLING

Forty-seventh Session

Gatineau, Canada

15 – 19 May 2023

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

Canada, as chair of the EWG, has revised the proposed draft text below upon consideration of comments and recommendations received in response to CL 2023/08/OCS-FL as compiled in CX/FL 23/47/7 Add. 1.

The amendments are outlined directly in the text boxes which include the rationale for the changes made.

The Committee is invited to consider the revised Guidelines as presented in this CRD.

NOTE: Text in **red bold** and ~~strikeout~~ shows proposed amendments to Appendix II of CX/FL 23/47/7 in response to comments from CX/FL 23/47/7 Add.1.

Proposed draft Guidelines on the Use of Technology to Provide Food Information

1. Purpose

Provide guidance on the use of technology to provide information about prepackaged foods¹.

Proposed change: The purpose statement is revised to include “to consumers” with a footnote to the definition of consumer in the General Standard for the Labelling of Prepackaged foods (GSLPF).

Provide guidance on the use of technology to provide information **to consumers**¹ about prepackaged foods².

Rationale: In response to comments, the revision clarifies that the guidelines apply to food information provided using technology that is intended for the consumer. The revision scopes out food information that could be accessed via a reference on a non-retail container label about prepackaged foods contained within the non-retail container.

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.

Proposed change: The scope statement is revised to include “by consumers”. A footnote to the definition of label in the GSLPF is added.

These guidelines apply to food information that is accessed **by consumers** using technology via a reference on a prepackaged food’s label³ or labelling⁴. For the purposes of this document, technology refers to any electronic or digital means, such as websites, online platforms and mobile applications.

Rationale: The revision clarifies that the guidelines apply in situations when consumers access food information using technology via a reference on the label or labelling of the prepackaged foods.

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:

Proposed change: The title and introductory paragraph are revised:

Principles for the Use of Technology in Food Labelling that are Applicable when Food Information is Provided to Consumers Using Technology

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

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

Food information that is accessed **by consumers** using technology via a reference on the prepackaged food's label or labelling should be based on the following principles, **whether the food information is required or provided voluntarily**:

Rationale: The revised title clarifies that this section is about the principles that apply when food information is provided to consumers using technology. The introductory paragraph explains that while the reference to the technology appears on the physical label or labelling of the prepackaged food, this section is about the principles that should be used when providing mandatory or voluntary food information to consumers via technology.

- (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.

Proposed change: Principles (1) and (2) are replaced with the following new proposed text:

~~(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.~~

~~(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.~~

The general principles in Section 3 of the GSLPF are applicable to food information that is described or presented using technology.

Rationale: While members supported the intent of these provisions, several members suggested the text could be simplified by referring to the relevant provisions of the GSLPF. This also ensures any future changes made to Section 3 of the GSLPF will automatically apply to this guideline.

- (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.

Proposed change: Principle (4) is deleted from this section.

~~(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.~~

Rationale: Several members expressed concern about the term "certainty", because it may not be possible to know for certain that consumers have access to the food information all the time. This

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

principle was meant to be read in conjunction with considerations 5(1) and (2), which explain what is meant by certainty. With the changes to Section 5 (1) below, this principle is no longer needed.

Proposed change: A new principle is added.

Where food information is provided using technology, the food information shall be shown in accordance with applicable Codex texts.

Rationale: If food information is provided to consumers using technology instead of, or in addition to, being shown on the prepackaged food's label or labelling, the food information should be shown in a manner that is in accordance with applicable Codex texts. For example, a voluntary organic claim or a mandatory country of origin statement that is communicated through technology should adhere to the relevant Codex text. This was a gap in the previous draft Guidelines. The term "applicable" was included for two reasons: (1) to specify that it refers to the relevant Codex text for that type of food information, and (2) because there could be some texts that no longer apply outside of the context of a physical label.

- (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.

Proposed change: "Purchasers" is removed from this and subsequent principles.

Rationale: Multiple members and observers agreed that these guidelines should apply to information about prepackaged foods that is provided using technology to both consumers and purchasers of foods for catering use as defined by the GSLPF. Commenters also noted that while the definition of "consumer" does not include foods for catering use because their purchase and use is not for "personal needs", when the term is used in the Codex Alimentarius procedural manual and other Codex texts including the GSLPF, it is implied that it is intended to apply to both consumers and purchasers of foods for catering use. For consistency and clarity with other texts, it is proposed that a reference to 'consumers' in these guidelines is sufficient and that the use of "consumers" in this and other Codex texts could be addressed as consequential or separate work.

- (7) When the label or labelling of a prepackaged food references food information to be accessed using technology, sufficient information shall be displayed on the technology platform to enable ~~[purchasers or]~~ consumers to ascertain that the food information pertains to that prepackaged food.
- (8) If the purpose of the reference on the label or labelling of the prepackaged food is not self-explanatory to ~~[purchasers or]~~ consumers, it should be accompanied by an explanation of how to use it or the type of food information that will be found when used (e.g. "scan here for more information on ingredients").
- (9) The reference and any explanatory statement shown on the label or labelling that links to food information to be accessed using technology should adhere to sections 8.1.2 and 8.1.3 of the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985).
- (10) Food information described or presented using technology shall be clear, prominent and readily legible to the ~~[purchaser or]~~ consumer under normal settings and conditions of use of the technological platform.
- (11) Food information described or presented using technology shall be shown in a language that is acceptable to the ~~[purchaser or]~~ consumer for whom it is intended.

Proposed change: Rewording of this Principle.

The language or languages of food information described or presented using technology shall be shown in a language that is acceptable **suitable** to the ~~purchaser or~~ consumer for whom it **in the country in which the food is marketed** intended.

Rationale: The revised text more closely aligns with section 7.2 of the "Proposed Draft Guidelines On The Provision Of Food Information For Prepackaged Foods Offered Via E-commerce" (CX/FL/47/6)

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:

Proposed change: The title is reworded and the introductory paragraph deleted.

Considerations for Deciding if Mandatory Food Labelling Information Could Instead be Provided to Consumers Using Technology ~~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:

Rationale: Several members and observers commented that the title should be revised to clarify that this section is about considerations for deciding if mandatory food labelling information could be provided to consumers using technology instead of the label or labelling. The introductory paragraph is no longer required with the revised title.

- 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.

Proposed change: Considerations 1 and 2 are replaced by the following new proposed text:

The food information should be readily accessible to consumers during normal and customary circumstances of purchase and use, which means

- (a) 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,
- (b) 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, **and**
- (c) **it is reasonable for the consumer to use the technology to access the food information during the normal and customary circumstances of purchase and use.**

Rationale: Several members and observers commented that considerations 1 and 2 seemed duplicative or should be combined because they each are regarding making food information readily accessible to consumers. They are combined along with paragraph (c) in the proposed new text to clarify they are different aspects of making food information readily accessible to consumers, which is the expected outcome of the consideration. Paragraph (c) is about whether it is a reasonable

expectation (i.e., is it practical) for consumers to use the technology during the circumstances of purchase and use. The proposed new text supports the removal of principle 4), as outlined later on in this text.

- 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~~ **harm** 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.

Proposed change: Consideration (4) of this section is deleted.

~~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.~~

Rationale: Multiple members and observers commented that consideration (4) was not consistent with the intent of these guidelines as it would mean that the majority of mandatory labelling information would never be eligible to be provided using technology. This consideration can be removed with the revision to Considerations 1 and 2 about whether the food information would be readily accessible under normal and customary conditions of purchase and use.

- 5) Food information that relates to ~~an specific~~ **individual** 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.

Proposed change: Consideration (6) of this section is deleted and the intent is included in a new section..

~~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.~~

Rationale: Some members suggested the text would be more clear if this Section focussed only on situations when technology could be used to replace mandatory food labelling 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.

Proposed change: Consideration (7) of this section is replaced with the following new proposed text:

~~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.~~ **A situation arises where the temporary use of technology is a**

reasonable means of providing consumers with access to food labelling information for the duration of the situation, such as in an emergency.

Rationale: This consideration is reworded to align with the updated title and presentation of this section.

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.

Proposed change: Consideration (8) of this section is deleted and the intent is included in a new section..

~~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.~~

Rationale: Some members suggested the text would be more clear if this Section focussed only on situations when technology could be used to replace mandatory food labelling information.

Proposed change: A new section to be added. Considerations 5(6) and 5(8) are replaced with a more general one that provides guidance about requiring the use of technology to provide mandatory food information when the information is not accessible on the label or labelling.

Use of Technology to Provide Consumers Access to Mandatory Food Information That is Not Accessible on the Label

1) In cases where food labelling information is not accessible to consumers, due to conditions of sale or to exemptions from having to be provided on the label or labelling, consideration should be given to the use of technology to provide consumers with access to that information.

Rationale: Considerations 5(6) and 5(8) are both about situations when labelling information that is normally mandatory on the label is not available, either because of exemptions (e.g., in the case of small packages) or because it is not accessible (e.g., due to the manner sold, such as vending machines, or due to the label not being accessible to those who are visually impaired). Some members supported these sections while others suggested they be removed. The adjusted text is intended to be a compromise between these two views, and to streamline two similar sections into one.

Proposed change: The Proposed Draft Guidelines text to be reordered and renumbered to become:

1. Purpose

2. Scope

3. Definitions

4. Considerations for Deciding if Mandatory Food Labelling Information Could Instead be Provided to Consumers Using Technology (former Section 5)

5. Use of Technology to Provide Consumers Access to Mandatory Food Information That is Not Accessible on the Label (part of former Section 5)

6. Principles that are Applicable when Food Information is Provided to Consumers Using Technology (former Section 4)

Note: to avoid confusion, re-ordering and re-numbering was not done for the purpose of this CRD, but rather to be adjusted at a later date. The sub-sections to also be renumbered accordingly.

Rationale: Several members and observers commented that considerations for deciding if mandatory food labelling information could instead be provided to consumers using technology should come before the section outlining principles for the use of technology in food labelling.