CODEX ALIMENTARIUS COMMISSION E

Food and Agriculture Organization of the United Nations

World Health Organization

Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - E-mail: codex@fao.org - www.codexalimentarius.org

Agenda Item 9 **CX/FL 21/46/9**

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

Forty-sixth Session

Virtual, 26 September – 1 October and 7 October 2021

DISCUSSION PAPER ON INNOVATION – USE OF TECHNOLOGY IN FOOD LABELLING
(Prepared by Canada)

Introduction and Background

1. At the 44th Session of the Codex Committee on Food Labelling (CCFL), 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. A total of 17 responses were received (14 member countries and 3 observer organizations).

3. At the 45th Session of CCFL, Canada introduced the discussion paper CX/FL 19/45/9. Three key areas were identified for discussion and possible new work:

a) the development of criteria for labelling to be made available at the point of sale;

b) the revision of the definition for "label" and "labelling" in the *General Standard for the Labelling of Prepackaged Foods* (GSLPF)(CXS 1-1985) to accommodate technology as a platform for labelling information, where appropriate; and

c) the review of other Codex texts developed by CCFL, to identify possible amendments to facilitate the use of technology for labelling.

4. 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[1].

6. In August 2019, member countries and observers were invited through CL 2019/82-FL to provide information on innovation and technology in food labelling and to consider seven questions to inform their submissions[2]. The questions sought to identify what gaps remain for CCFL to address with respect to the use of technology in the sale of foods or in conveying information about foods to consumers or other buyers, taking into consideration the concurrent work on internet sales. Questions were also raised regarding the current GSLPF definitions of "label" and "labelling" with respect to information provided by technology that is not accompanying the food. The type of food labelling information that could be provided using technology and how to ensure its accessibility was also discussed.

7. 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 and input on potential

[1] REP19/FL, para 105
[2] CL 2019/82-FL - Request for Information on Innovation and Technology in Food Labelling

next steps. Stakeholder responses were used to guide the completion of this discussion paper and project document on the proposal for new work for consideration at the next session of CCFL.

8. This discussion paper summarizes the responses received to the CL 2019/82-FL and CL2020/57-FL, which posed questions to CCFL Members and Observer Organizations regarding potential new work on the use of innovation and technology in food labelling. The range of responses received continues to suggest an overall recognition from members and observers that the use of innovation and technology in food labelling is a relevant topic that requires consideration. Modernizing the relevant texts to more easily accommodate innovation and technology in labelling would allow Codex to provide guidance as the use of technology expands. The full analysis to the circular letters is presented in Appendix I.

Conclusions and recommendations

9. The specific conclusions as a result of the circular letters are:

9.1 In general, mandatory information should remain on the physical label of prepackaged foods for consumers at this time, with rare exceptions such as in the case of small packages. The definition of "Label" should continue to pertain to the physical product.

9.2 The General Principles of section 3 of the GSLPF should apply to all labelling information, whether it is provided on a physical label or labelling, or by using technology. Necessary adjustments to the GSLPF should be made to accomplish this.

9.3 The scope of new work regarding Innovation and Technology in Food Labelling should be limited to prepackaged foods intended for consumers or foods for catering purposes, as the Guidance for the Labelling of Non-Retail Containers of Food sufficiently addresses the use of technology for those types of foods.

9.4 Supplementary or voluntary information may be provided using technology. Mandatory information on the physical label may be repeated and displayed using technology. Any labelling information provided through technology should match what is declared on its physical label, for consistency and to avoid misleading consumers.

9.5 New work is recommended to develop broad guidelines on the use of technology to provide food labelling information. For example, principles surrounding:

i. the provision of voluntary or supplemental information through technology

ii. exceptional circumstances where technology may be appropriate to provide mandatory information

iii. the presentation, legibility, and accessibility of information provided through technology.

9.6 Any new work should take into consideration the CCFL's work on Internet Sales/E-commerce to ensure consistency and avoid duplication.

9.7 Various other Codex texts may need to be reviewed for possible amendments as a result of the innovation and technology work.

Recommendation

10. The Committee is invited to consider new work on *labelling information provided through technology* to address the work outlined in recommendations 9.2 and 9.5, and 9.7 (the project document is presented in Appendix II).

Appendix I

Analysis and discussion of the responses to the circular letters

1. Scope

The topic of innovation and the use of technology in food labelling has been previously described as the provision of labelling information through the use of technology, even when the physical product is present. This may include, for example, a QR code (Quick Response) on a product that links to additional information on a website or web-based application.

There is a distinction between the subject of innovation and technology in food labelling and the work on e-commerce / internet sales of food. However, they are closely linked. For the purposes of this paper, innovation and technology in food labelling relates to labelling information provided via technology with respect to a prepackaged food that *is* physically present with the consumer, including when the purchasing decision is made. By contrast, the internet sales work relates to the labelling of prepackaged foods offered for sale via e-commerce, or in other words, prepackaged foods that *are not* physically present with the consumer when the purchasing decision is made.

2. Analysis of Responses to CL 2019/82-FL (July 2019)

A total of 24 responses to CL 2019/82-FL were received (18 member countries, 1 member organization and 5 observer organizations; refer to ANNEX 1 for a list of respondents). Overall, based on the number of responses received, there is a general interest and acknowledgement of the increasing prevalence of innovation and technology in food labelling. However, there was some variation regarding the scope and extent of new work that should be pursued on the topic.

2.1 Gaps in Current Work or Texts

> **Question (a):** Considering the CCFL work on internet sales (REP19/FL Appendix III page 41-43), what gaps remain for CCFL to address respecting the use of technology in the sale of foods or in conveying information about foods to the consumer or other buyers?

The work on Internet Sales[3] aims to develop a supplementary text to the GSLPF[1] that will specify the information that shall appear in the virtual depiction of prepackaged food sold through e-commerce. The work will also review and revise, as necessary, the current provisions under the GSLPF and other Codex texts related to food labelling, to ensure their scope includes food sold in an e-commerce environment.

Considering this, respondents' most commonly identified gaps remaining for CCFL to address surrounding innovation and technology were:

- to identify the type of food labelling information that may or may not be provided through technology (i.e. mandatory vs voluntary information) (52%),
- to identify situations in which certain information may or may not be presented through technology (e.g. very small packages, bulk display) for consumer prepackaged food (35%), and
- to define the terms 'innovation' and 'technology' (39%), which it was noted may help to clarify the scope of the new work and identify situations other than e-commerce where such technology may be used.

Other gaps identified by respondents were considerations for technology-based labelling solutions for products sold in-store and on-product labelling innovation which may be related to food safety (e.g. time-temperature indicators, integrity indicators, freshness indicators) (30%). Others noted it is important to consider accessibility and consumers who do not have access to innovative technology (22%). Another identified gap that new CCFL work on innovation and technology could address is the potential role of technology in facilitating the increased consumer demand for food information (e.g. method of production, religious certification, environmental or ethical attributes, organic status, provenance) (22%). Lastly, gaps in how innovation and technology may be used in advertisements or production promotional requirements could be addressed by new work (13%). One respondent indicated points addressed in REP19/FL Appendix III in reference to internet sales are complete. The topic of loose foods (foods that are not prepackaged) was brought up by one respondent.

2.2 Definitions of Label and Labelling

> **Question (b):** Do the current CCFL definitions for "label" and "labelling" sufficiently capture information that is not accompanying the food, such as mandatory or voluntary labelling information provided virtually using technology? If not, what is the best approach to address this gap, e.g. a new definition or revisions to the existing definitions?

[3] REP19/FL Appendix III

The majority of respondents (86%) indicated that the current GSLPF definitions for 'label'[4] and 'labelling'[5] do not capture labelling information that is provided virtually using technology. It was noted that the definition of 'label' is effective when the package of food is physically present at the point of sale. While the definition of 'labelling' applies more broadly and includes information accompanying or displayed near the food, it does not sufficiently encompass information available on the internet or other virtual platforms, such as that accessible using a QR code.

Some respondents (14%) noted that the current definitions do not require changes and sufficiently capture information that is not accompanying the food and is provided by other technological means.

55% of respondents proposed that work on innovation and technology should include revisions to the existing definitions for 'label' and 'labelling', while 18% suggested new definitions be drafted for use in the context of innovation and technology alone. Many noted that care must be taken to avoid any potential unintended consequences of updating the existing definitions of "label" and labelling", as these terms are widely used throughout CCFL Codex texts and apply horizontally. An example of an unintended consequence could arise if the definition of "label" were to no longer relate exclusively to a container of food/physical product, which could then potentially and inadvertently allow labels to be provided using electronic means. Several respondents proposed various amendments for consideration.

It was also suggested that any potential innovation and technology work to amend these definitions align with the work on e-commerce and internet sales.

It was suggested by three member countries and one member organization that introducing the new concept of 'food information to consumers' could address the gap in current definitions of 'label' and 'labelling', as it could cover not only food labelling, but all food information provided to consumers. The example provided was the approach used in EU Regulation No 1169/2011, under which "food information to consumers" allows some food information to be provided via technology under certain conditions. This regulation defines food information as *"information concerning a food and made available to the final consumer by means of a label, other accompanying material, or any other means including modern technology tools or verbal communication".* Furthermore, it was noted that it could be confusing to update the term 'labelling' to include other technology, as the term 'labelling' refers to the physical label, rather than food labelling information available on a virtual platform or information accompanying the food.

2.3 Current Requirements for Mandatory Labelling Information Provided Through Technology

Question (c): Within your country / region, have you identified mandatory labelling information that can be provided through technology? Have you identified criteria for the use of technology in food labelling? If so, please elaborate.

Feedback indicated that 79% of respondents have not identified mandatory labelling information that may be provided through technology. Three Member Countries (13% of respondents) have identified mandatory labelling information that may be provided through technology; 2 of which (8%) have criteria for the use of technology in food labelling.

Two Member Countries (8% of respondents) reported regulating the requirements for internet sales, but not which mandatory information should be provided through technological means. It was noted that one Member Country has implemented a mandatory requirement for all food products to bear a 2D barcode (e.g., QR code) that includes information on the name and address of the manufacturer, brands, registration number, expiry date of registration number, and type of packaging. One Member Country also noted that it is not permitted to convey food information to consumers through the use of technology (it is only permitted in business to business transactions through the labelling of non-retail containers, which are not intended for direct sale to consumers or for catering purposes).

Two respondents (8%) described Article 12(3) of the EU Regulation No 1169/2011 that allows the provision of mandatory food information to be expressed by means other than on the consumer package or label if the same level of information that is required to be on the package or label is ensured, and there is evidence of uniform consumer understanding and wide consumer use of these technologies. However, it was also noted that the EU has not yet identified criteria for the expression of certain mandatory food information by means other than on the label.

[4] "Label" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food (*General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985))

[5] " Labelling" includes any written, printed or graphic matter that is present on the label, accompanies the food, or is displayed near the food, including that for the purpose of promoting its sale or disposal.

One member indicated that in their country, the use of technology in labelling is optional in some scenarios including:

- for food sold via vending machines;
- restaurant menu nutrition information;
- identification marks such as a barcode applied to each shipping container in business to business transactions; and
- bioengineering information that may be provided via electronic or digital link (must be accompanied by additional information) or text message (in addition to on-label options).

In another comment, it was suggested that at an individual country level, technological means may be appropriate to provide information that would normally be mandatory for a prepackaged food but is exempt from being on a label in certain circumstances. One observer organization noted that a survey was conducted regarding consumer views on receiving mandatory labelling information by means other than the label for chewing gum. This survey found a preference for nutrition information via other means, including technology (particularly sugar-free gum).

2.4 Providing Mandatory Information using Technology

Question (d): What mandatory food labelling information is appropriate to be provided using technology, and under what circumstances?

Half of the respondents indicated that food information provided through technology should supplement rather than replace mandatory information on the label of consumer prepackaged food, citing concerns regarding accessibility. In other words, it would not be acceptable at this time to provide mandatory food labelling information exclusively *through technological means,* particularly for labelling information related to health and safety (e.g. ingredients, allergens, best before dates). Feedback from 39% of respondents suggests it's appropriate to allow labelling information that is eligible for exemption (e.g. the small package exemption) or voluntary (e.g. claims, nutrition labelling, translation into different languages) to be provided through technology.

11% of respondents to the CL noted that mandatory information is appropriate to be provided using technology in the case of business to business exchange. Others noted that any information provided through technological means must comply with 'Section 7: Optional Labelling' of the GSLPF.

2.4.1 Criteria for the Use Technology in Labelling

Question (d)(i): Should CCFL outline specific types of labelling and circumstances when the use of technology may be appropriate, or outline broad criteria for its use?

Feedback was received from 18 member countries and 4 observer organizations; 59% of responses indicated CCFL should outline broad criteria for the appropriateness of the use of technology in food labelling. Of these, several stated that the development of broad criteria would accommodate changes to technology over time and be more flexible to innovation. On the other hand, 23% of respondents supported outlining specific circumstances under which the use of technology may be appropriate in food labelling. Nearly 14% supported a combination of both broad criteria and specific circumstances whereby technological means to labelling would be appropriate. One respondent stated there is no need for Codex to be involved in presentation of voluntary information by new technology, as Codex may unnecessarily and unintentionally restrict the communication to consumers in a space that is seeing rapid changes in technology.

2.4.2 Location of Information

Question (d)(ii): Where should such provisions be placed, e.g. in the General Standard for the Labelling of Prepackaged Foods, the Guidance on the Labelling of Non-Retail Containers, or elsewhere?

Feedback was received from 19 member countries and 4 observers; 57% of responses indicated that provisions on the use of technology and innovation in food labelling should be placed in the GSLPF. Further to this, one respondent noted that the discussion paper on future work states that the work should cover new technology to convey information directly *to the consumer*, so it follows that new provisions should be placed in the GSLPF. However, 26% of respondents support revising both the GSLPF (for consumer prepackaged food) and the Guidance on the Labelling of Non-Retail Containers guidance (for business to business transactions), half of which suggested GSLPF updates should come first, and then update the Guidance on the Labelling of Non-Retail Containers.

One member country indicated that any such provisions should be placed in a new, separate Codex text, while another member noted the importance of ensuring any new work on innovation and technology aligns with the ongoing e-commerce updates to the GSLPF. Two Member Countries (8%) noted that it is premature to decide where such provisions should be placed, pending clarification of the scope of the new work. One member country stated that a new document is not needed.

2.5 General Principles for Food Labelling

Question (e): How should CCFL ensure that food labelling information conveyed using technology complies with general principles, including that it is not presented in a manner that is false or misleading?

There was a general consensus from respondents that all prepackaged food information should comply with Section 3 of the GSLPF, whether the information is provided through technological means, or not. This provision requires that food information be presented in a manner that is truthful and not misleading.

Feedback included several proposals on how to integrate, supplement or revise the GSLPF to include labelling through technological means:

- Updating Section 8 to clarify that innovative technology is included in the scope;
- As previously noted, updating the definitions of 'label' and 'labelling' to clarify that technological means of providing food information to consumers is included;
- Aligning any updates with ongoing work in e-commerce/internet sale of food; and
- Similar to what was noted above in response to Question 2, introducing a new definition or concept for 'food information for consumers' whether it accompanies the food or not, and then modifying 'Section 3 – General Principles' of the GSLPF so that it applies to information covered by this new term.

Several respondents also noted that it is the responsibility of food business operators to demonstrate compliance with applicable national legislation. Compliance and enforcement activities are not under the jurisdiction of Codex; rather, the competent authority in each nation is responsible for enforcing legislation under its jurisdiction.

2.6 Accessibility, Format and Presentation of Information Provided Using Technology

Question (f): What should CCFL consider with respect to accessibility, format, and presentation of information provided using technology?

Responses to this question were wide and varied. However, most respondents indicated that legibility and presentation of information through technology is important. Some suggested this should be in line with the principles in Sections 3 and 8 of the GSLPF (which could be adapted as necessary). Several respondents identified accessibility as a clear priority in any new work on innovation and technology in food labelling. The comments about accessibility included a range of topics such as technological literacy (e.g. the ability to use, manage, understand and access technology), consumer readiness and the availability of technology to populations globally. The question of equal access to information remains a key consideration and should take into account the readiness of member countries in assessing information or using technology in food labelling. Further considerations surrounding technology, food labelling and accessibility included the following:

- Three Member Countries (14% of respondents) raised questions as to who has the responsibility to provide the electronic device to the consumer to ensure accessibility, if necessary. Would it be the manufacturer, retailer, distributor or other?
- Four respondents noted that further consideration should be made for consumers with a visual or hearing impairment.
- It was also noted that the way to access further information should be clearly marked on the physical label.
- Several respondents noted the new work could address access to labelling information provided through technology or innovation in the event of technological breakdown or failure. It could discuss how to maintain a "traditional" source of information, such as through consumer hotlines and other alternatives (i.e. in-store catalogues), that can be accessed in case other technology fails (even if temporarily). The protection of user privacy and online security measures were also noted as important considerations.
- Others noted the importance of identifying what information should always be accessible to the consumer at the point of sale.
- One Member Country asked for clarity surrounding what is meant by the term 'accessibility'

Three Member Countries (14% of respondents) noted that the work on innovation and technology could consider adapting language from the Guidance on the Labelling of Non-Retail Containers on the points of accessibility, format and presentation, and expand on them if necessary. Multiple respondents stated that format and presentation of labelling information provided through technology should meet the same requirements for traditional labelling on prepackaged food. There were suggestions to update Sections 3 (General Principles) and 8 (Presentation of Mandatory Information) of the GSLPF to clarify that these requirements include information provided using technology. This would ensure consistency between the information provided on physical label and the information provided through technological means.

Some respondents noted that it could be beneficial to create underlying principles to standardize the presentation, format and technological platforms that could be used to display food labelling information. This would help to achieve a certain level of consistency while allowing the flexibility for innovation and technological advances.

One member country noted that food labelling information that is available electronically should be free/separated from unrelated information and advertisements to avoid confusing consumers. Information should be readily and directly available from the reference link and should be dated and linked to the lot of product being sold (in the case of information that may change over time or become outdated).

Another member country noted that consideration should also be given to enforcement and compliance approaches available to competent authorities that would enable non-compliance of labelling information conveyed through the use of technology to be effectively addressed.

Another suggestion was that food labelling information provided through technology should be available and remain accurate throughout the durable life of the food.

2.7 Other Codex Texts to be Reviewed for Possible Amendments

Question (g): Which other Codex texts should be reviewed for possible amendments that would facilitate the use of technology in food labelling?

As previously reported, there was general consensus for reviewing the GSLPF. The following table lists other Codex texts recommended for review:

Codex Committee	Codex Texts for review
CCFA	General Standard for the Labelling of Food Additives When Sold As Such (CXS 107-1981)
CCFFP	Guidelines on Claims (CXG 1 – 1979)
CCFICS	Guidelines for Food Import Control Systems (CXG47-2003) and other CCFICS work on traceability
CCFL	Compilation of Codex texts relevant to the labelling of foods derived from modern biotechnology (CXG 76-2011)
CCFL	General Guidelines for Use of the Term “Halal” (CXG 24-1997)
CCFL	General Standard for the Labelling and Claims for Prepackaged Foods for Special Dietary Uses (CXS 146-1985)
CCFL	Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (CXG 32-1999)
CCFL	Guidelines for the Use of Nutrition and Health Claims (CXG 23 – 1997)
CCFL	Guidelines on Nutrition Labelling (CXG 2 – 1985)
CCFL*	Draft Guidance for the Labelling of Non-retail Containers
CCFL*	Work on e-commerce / internet sales
CCNFSDU	Advisory Lists of Nutrient Compounds for Use in Foods for Special Dietary Uses Intended for Infants and Young Children (CXG 10-1979)
CCNFSDU	General Principles for the Addition of Essential Nutrients to Foods (CXG 9-1987)
CCNFSDU	Guidelines for Vitamin and Mineral Food Supplements (CXG 55-2005)
CCNFSDU	Guidelines on Formulated Complementary Foods for Older Infants and Young Children (CXG 8-1991)
CCNFSDU	Standard for Canned Baby Foods (CXS 73-1981)
CCNFSDU	Standard for Follow-up Formula (CXS 156-1987)
CCNFSDU	Standard for Foods for Special Dietary Use for Persons Intolerant to Gluten (CXS 118-1979)
CCNFSDU	Standard for Formula Foods for Use in Very Low Energy Diets for Weight Reduction (CXS 203-1995)

CCNFSDU	Standard for Formula Foods for Use in Weight Control Diets (CXS 181-1991)
CCNFSDU	Standard for Infant Formula and Formulas for Special Medical Purposes Intended for Infants (CXS 72-1981)
CCNFSDU	Standard for Labelling of and Claims for Foods for Special Medical Purposes (CXS 180-1991)
CCNFSDU	Standard for Processed Cereal-Based Foods for Infants and Young Children (CXS 74-1981)
CCNFSDU	Standard for Special Dietary Foods with Low-Sodium Content (including Salt Substitutes) (CXS 53-1981)
Other	Statement on Infant Feeding (CAC/MISC 2-1976)

Note: * = work in development

3. Analysis of responses to CL 2020/57-FL, November 2020

The most recent circular letter (CL 2020/57-FL) drew conclusions based on feedback to date and posed additional questions to members to verify the level of support for those conclusions. It also sought feedback on options where no conclusions could yet be drawn. A total of 34 responses to CL 2020/57-FL were received (26 member countries, 1 member organization and 7 observer organizations). Refer to ANNEX 2 for the list of respondents.

The following summarizes the feedback on the specific questions.

3.1 Mandatory Labelling Information to Remain on Physical "Label"

Question 1: Do you agree with conclusion 4.1 (a)? If so, there would be no clear need for new work to identify specific labelling information that may be provided using technology at this time (with the possible exception of #4 below). Do you agree that support for conclusion 4.1 (a) would include ensuring that there remains a definition of "label" that is exclusively about a physical product, i.e. a label applied to a container of food? Please provide a rationale.

For reference, conclusion 4.1 (a):

Mandatory information should remain on the physical label of prepackaged foods for consumers at this time, with a key concern being uniform accessibility, particularly for health and safety information. There are very few circumstances where respondents considered that technology should be permitted to replace the physical label at this time. The few examples provided where this may be appropriate included very small packages, certain country-specific labelling information, and business-to-business transactions.

Respondents generally agree (91%) with conclusion 4.1 (a), that mandatory information under the GSLPF should remain on the physical label of prepackaged foods for consumers at this time, with few exceptions (e.g. very small packages). A few respondents (9%) suggest some work could be done to identify specific labelling information that may be provided through technology alone.

While most (71%) see value in maintaining a definition of "label" that pertains to a physical product, 6% stated it should be expanded to incorporate technological media. Another 12% suggest reviewing the definition of "labelling" or new definitions being considered for food information presented via technology, to ensure alignment with CCFL work on internet sales/e-commerce.

Many respondents (44%) expressed that mandatory labelling information could be duplicated such that it could appear on both the physical label and through the use of technology (but not replaced). Supplementary or voluntary information could be presented using technology, with suggestions that broad principles should be developed. Comments suggested that establishing an international guideline on using digital tools in food labelling is beneficial as technology evolves, and that an increasing number of member countries may use such tools.

3.2 How to Maintain General Principles of GSLPF When Technology Used

Question 2: Do you agree with conclusion 4.1 (b)? Why or why not? If you agree, how should this be achieved? Do you support defining a new term (e.g. "food information for consumers") and amending section 3 of the GSLPF to include this term? Do you believe CCFL should consider whether the definition of "labelling" could be adjusted for this purpose? Do you have other suggestions?

For reference, conclusion 4.1 (b):

The general principles in Section 3 of the GSLPF, indicating that information must not be false, misleading or deceptive, should apply to all information about a prepackaged food, whether provided on the label, in labelling, or through other means such as technology.

All respondents agree the general principles in Section 3 of the GSLPF, indicating that information must not be false, misleading or deceptive, should apply to all information about a prepackaged food, whether provided on the label, in labelling, or through other means such as technology. The general principles were designed to protect the health and rights of consumers and promote fair trade practices. This should be independent of the means by which the information is provided, because consumers need factual information at the time they are making their purchasing decision. However, 6% of respondents believe it's not necessary to amend section 3 of the GSLPF, as the principles are universal and remain applicable to the use of technology.

Many respondents suggest exploring how the definitions for food information presented via e-commerce methods can be modified to meet the need, as is being done in CCFL's Internet Sales/E-Commerce work. Approximately 45% agree a new term should be defined, 39% support the new term 'food information for consumers'. While 39% state the GSLPF 'labelling' definition could be revised to include labelling information conveyed using technology, 18% caution against it. A few stated it is not necessary to establish a new term.

One respondent recommends the Committee discuss the circumstances when "food information" is provided in a manner that falls either inside or outside of the broad definition of "labelling," regardless of the technology that is used.

3.3 Guidance for Non-Retail Containers and Use of Technology

Question 3: Do you agree with conclusion 4.1 (e)? Do you see any additional need for CCFL to address the use of technology in the labelling of non-retail containers of food beyond what is in the existing Draft Guidance for the Labelling of Non-Retail Containers of Food?

For reference, conclusion 4.1 (e):

The current Draft Guidance for the Labelling of Non-Retail Containers of Food already address the use of innovation and technology for those types of foods, in that these guidelines provide specific circumstances under which alternative means (which includes technology) may be used to provide certain types of mandatory labelling information. The Draft Guidance also addresses the presentation of information provided by means other than the label. This text may be a useful reference as the work on the use of technology in food labelling continues.

Respondents agree that the current Draft Guidance for the Labelling of Non-Retail Containers of Food sufficiently addresses the use of technology for those types of foods, providing circumstances under which alternative means may be used to provide certain types of mandatory labelling information and its presentation. However some noted its usefulness may be limited to this work on innovation and technology, as it only applies to non retail containers, and not prepackaged foods for consumers. Three respondents (10%) stated its not necessary to address this discussion in this document as this matter should be reviewed in its own specific work stream.

3.4 Options for New Guidelines

Question 4: With respect to prepackaged food for consumers, the key areas where respondents to CL 2019/82-FL saw the potential value in the use of technology to provide labelling information were with respect to:

(i) supplementary or voluntary labelling information (subject to the General Principles in Section 3 of the GSLPF as outlined above);

(ii) specific circumstances that may involve exemptions, such as very small packages where a physical label cannot fit all of the mandatory information;

(iii) country specific requirements.

Further, respondents also supported specifying legibility and accessibility requirements related to information provided through technology. To address this feedback, Canada is seeking input on two possible options:

a. No new work is required at this time. Items 1 and 3 above address the provision of mandatory information through the use of technology. As the main remaining area of support for the use of technology in labelling relates to information that is voluntary and not required under CCFL texts, there is no need to develop additional guidance, other than that proposed in question 2.

b. Given that several respondents supported outlining broad criteria for the use of technology in labelling, CCFL could consider developing guidance with respect to the themes that are summarized in items 1-4 (*should read i-iii*) above. Such guidance could outline, for example, principles surrounding types of information that must always be physically present with a prepackaged food at time of sale, exceptional circumstances where exemptions may be appropriate, considerations with respect to the provision of voluntary information through technology, and related legibility and accessibility considerations.

Which of the above two options, (a) or (b), do you support? Do you have another suggestion? Please provide a rationale.

The majority (66%) of respondents support option b): they agree with developing broad principles for the use of technology in food labelling as described above. Food labelling information available to consumers by technological means is increasing and the timing is appropriate for the development of guidelines to achieve consistency, avoid issues (e.g. consumer confusion) and to enable clear understanding for such use by members. New guidance could support the use of technology to provide information that is not currently available on the label (e.g. very small packages) and address legibility and accessibility of the information. Such guidance could address consistency of information between what is provided on a label of a physical product, and what is presented about the same product through technological means (e.g. website). Many respondents stated countries could use these broad principles and guidance in the development of country specific standards.

Approximately 25% of respondents support option a), stating work on innovation and technology is not a priority at this time. Some suggest evaluating the need for new work once the guidance on Internet Sales/E-Commerce is finalized.

Approximately 6% of respondents stated both options a) and b) are viable.

Approximately 3% of respondents support neither option at this time.

3.5 Review of Existing Texts That May be Affected

Question 5: Do you support reviewing and amending as necessary any existing texts affected in pursuit of the above?

Respondents (84%) support the review and amendment of any existing Codex texts, as necessary, affected in pursuit of the above. A few respondents suggested this should be assessed in light of the outcome of the proposed work and that revisions must rely on the evaluation of the respective Codex Committees, to ensure consistency and to avoid unexpected negative effects. A few respondents (10%) stated revisions to other texts are not needed at this time; 7% stated its not clear to which existing texts this refers (Note: Section 3.7 lists the other Codex texts to be reviewed for possible amendments, compiled from responses to CL 2019/82-FL).

3.6 Other Comments

Question 6: Do you have any other comments on the conclusions in section 4.1, or any other considerations to offer?

There is general agreement that the concurrent CCFL work on e-commerce/internet sales should be taken into consideration as innovation and technology in food labelling is considered. One respondent suggests the Working Group seek input from online retailers as this topic has relevance to their businesses. One respondent proposes a new term: “Information of importance for consumers” which must be strictly about label information related to food safety and quality.

ANNEX 1

LIST OF RESPONDENTS TO CL 2019/82-FL

Member Countries

Australia
Canada
Colombia
Costa Rica
Ecuador
Honduras
Indonesia
Iran (Islamic Republic of)
Japan
Mexico
New Zealand
Peru
Philippines
Switzerland
Thailand
United Kingdom
United States of America
Uruguay

Member Organization

European Union

Observer Organizations

European Alcohol Policy Alliance
Food Industry Asia (FIA)
Fédération internationale des vins et spiritueux (FIVS)
International Chewing Gum Association
International Council of Beverage Associations

ANNEX 2

LIST OF RESPONDENTS TO CL 2020/57-FL

Member Countries

Argentina
Australia
Brazil
Canada
Chile
Colombia
Costa Rica
Cuba
Dominican Republic
Ecuador
Guatemala
Iran (Islamic Republic of)
Japan
Kenya
Mexico
New Zealand
Panama
Paraguay
Peru
Philippines
South Africa
Thailand
Uganda
United Kingdom
Uruguay
United States of America

Member Organization

European Union

Observer Organizations

Fédération internationale des vins et spiritueux (FIVS)
FoodDrinkEurope
Food Industry Asia (FIA)
International Confectionery Association (ICA)
International Council of Beverages Associations (ICBA)
International Fruit and Vegetable Juice Association (IFU)
International Special Dietary Foods Industries (ISDI)

Appendix II

PROJECT DOCUMENT

PROPOSAL FOR NEW WORK ON LABELLING INFORMATION PROVIDED THROUGH TECHNOLOGY

PURPOSES AND SCOPE OF THE NEW WORK

The purpose of this proposed new work is to address gaps in CCFL texts in order to provide sufficient guidance regarding the use of technology to provide food labelling information.

The scope of this proposed work is prepackaged foods for the consumer or for catering purposes, in line with the scope of the *General Standard for Labelling of Prepackaged Foods* (GSLPF). It excludes the use of innovation and technology in the labelling of non-retail packages of food. For the purposes of this project document, innovation and technology in food labelling relates to information about a prepackaged food presented through technology, such as in the case of a prepackaged food that is physically present with the consumer, and for which additional product information is available through electronic or technological means.

1. RELEVANCE AND TIMELINESS

There is a general interest and acknowledgement of the increasing prevalence of the use of technology and electronic means of communication around the world, including for food labelling. There is an overall recognition from member countries and observers that the use of innovation and technology in food labelling is a relevant topic that requires consideration. This work is timely as it is an opportunity to bring consistent guidance to a rapidly expanding area and it is closely linked to the work on e-commerce/internet sales. Therefore, there are benefits to proceeding concurrently with the work on e-commerce/internet sales.

2. MAIN ASPECTS TO BE COVERED

This new work proposal is to:

a) Review and revise the GSLPF to ensure the General Principles in Section 3 apply when using technology in food labelling. This may include amending or introducing new definitions in section 2, and updating principles in section 3.

b) Outline broad criteria/develop guidelines (supplementary text) for the use of technology in food labelling, including:

   i. information that must always be physically present on the label of a prepackaged food at the time of sale, and the types of information that may be provided using technology.

   ii. circumstances where exemptions may be appropriate.

   iii. consistency between information provided through technology with information provided on a physical label.

   iv. considerations related to legibility, the presentation of information, language requirements, and how physical labels link or refer to additional information available electronically

   v. accessibility of information provided through technology to consumers.

c) Review and provide proposals for amendments, as necessary, to any relevant Codex texts that would be impacted by the above.

3. ASSESSMENT AGAINST THE CRITERIA FOR THE ESTABLISHMENT OF WORK PRIORITIES

General criterion:

Consumer protection from the point of view of health, food safety, ensuring fair practices in the food trade and taking into account the identified needs of developing countries.

The use of QR codes and other technological means of providing consumers with information is growing globally. In addition, consumers are increasingly wanting more information about products they purchase that exceeds the space available on food labels. The lack of standardized guidance for labelling information provided through technology may result in issues pertaining to health, food safety, and the protection of fair practices in the global food trade.

Criteria applicable to general matters

a) Diversification of national legislations and apparent resultant or potential impediments to international trade

No national regulations have been identified as having been developed on this topic, and the majority of members have not identified mandatory labelling information that may be provided through technology. With the rapid growth of technology and accessibility to it, it is important to maintain some consistency in terms of what is available on a package versus what is provided through technology to ensure consumers have the information they need to make informed, safe food choices, and to minimize impediments to trade.

b) Scope of work and establishment of priorities between the various sections of the work.

It is proposed that the two streams of work, one related to the general principles of the GSLPF and the other related to the development of broad guidelines and criteria regarding the use of technology in food labelling, can proceed concurrently.

c) Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body(ies)

The current Draft *Guidance for the Labelling of Non-Retail Containers of Food* addresses the use of innovation and technology for those types of foods, in that these guidelines provide specific circumstances under which alternative means (which includes technology) may be used to provide certain types of mandatory labelling information. The Draft Guidance also addresses the presentation of information provided by means other than the label. Certain aspects of this text may serve as a useful reference for this proposed project.

There has been no other international work identified that specifically relates to this topic. Codex is the relevant international organization responsible for developing standards concerning innovation and technology in food labelling.

d) Amenability of the subject of the proposal to standardization

Updates and new guidelines would make it clear when and how the use of technology in food labelling is acceptable, and be aligned with ongoing work in e-commerce/internet sale of food. As the intent is to develop broad principles, these could be effectively standardized, with the involvement of and input from Codex Members.

e) Consideration of the global magnitude of the problem or issue.

Technology and its advances have a powerful impact on human behavior all over the world. Food labelling information remains an important tool for consumers to support informed purchasing choices. While offering benefits to consumers, the rise in the use of technology in food labelling also presents risks to consumer protection, and public health and safety. In the absence of clear, internationally recognized guidelines, there may be risks of deliberate or non-deliberate misleading practices, or lack of access to mandatory labelling information, which may lead to marketplace disruption and consumer detriment. Identifying which types of labelling information may be provided using technology and principles to facilitate a level of consistency across different technological labelling platforms would be beneficial in ensuring standardized presentation of information.

4. RELEVANCE TO THE CODEX STRATEGIC OBJECTIVES

The proposed work is in line with the Commission's mandate for the development of international standards, guidelines and other recommendations for protecting the health of consumers and ensuring fair practices in food trade. The new work proposal will contribute to advancing Strategic Goals 1 and 3 as described below.

In relation to the new Strategic Plan/Goals (2020-2025):

Strategic Goal 1: Address current, emerging and critical issues

This work offers CCFL to address one of the most topical developments in the food labelling domain. Technology provides a new and convenient way for companies to share information with consumers, and many are already doing so. However, guidance is required to facilitate consistency, clarity and access to information by consumers for making informed purchasing decisions and to avoid misleading practices.

Strategic Goal 3: Deliver impact through the recognition and use of Codex standards

Responses from members have not revealed examples of international standards or requirements on this specific topic. The work proposed to be undertaken by CCFL would provide a harmonized approach that could be used globally by Member countries, facilitating fair food trade for the benefit of all stakeholders.

5. RELATION BETWEEN THE PROPOSAL AND OTHER EXISTING CODEX DOCUMENTS AS WELL AS OTHER ONGOING WORK

The proposal includes a review of impacts on other Codex text(s) related to food labelling, with adjustments as necessary for consistency. This work is related to the concurrent CCFL work on e-commerce/internet sales as both work streams involve electronic platforms used in food labelling. The work on e-commerce/internet

sales will be taken into consideration during the course of this work in order to ensure alignment and to avoid duplication.

The draft *Guidance for the Labelling of Non-Retail Containers of Food* is addressing the use of alternative means, including technology, for those foods. As such, the focus of this project document is on prepackaged foods for the consumer or for catering purposes.

6. REQUIREMENT FOR AND AVAILABILITY OF EXPERT SCIENTIFIC ADVICE

None identified at this stage. There will be opportunities to consult with relevant bodies if necessary throughout the process.

7. NEED FOR TECHNICAL INPUT TO THE STANDARD FROM EXTERNAL BODIES

None identified at this stage. There will be opportunities to consult with relevant bodies if necessary throughout the process taking into account related work in other international fora.

8. PROPOSED TIME-LINE FOR COMPLETION OF THE NEW WORK, INCLUDING THE START DATE, THE PROPOSED DATE FOR ADOPTION AT STEP 5, AND THE PROPOSED DATE FOR ADOPTION BY THE COMMISSION

Subject to the Codex Alimentarius Commission approval at its 46th session in 2021, it is expected that the work can be completed in three sessions.