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Subject: Guidance (Q&A) on the New EU Wine Labelling Rules, after amendment of Regulation (EU) No 1308/2013 and Delegated Regulation (EU) 2019/33
DRAFT (Version 1)*

This document provides replies to questions that the Commission services have received in relation to the application of the rules on labelling of wines introduced by Regulation (EU) 2021/2117[1], amending Regulation (EU) No 1308/2013[2] (hereinafter also referred to as CMO).

Those replies express the views of the Commission services and do not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

*This version is not endorsed by the European Commission, and its content may thus not be regarded as stating any official position. The information transmitted is intended only for the Member State or entity to which it is addressed for discussions and may contain confidential and/or privileged material.

[1] Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

[2] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

GENERAL QUESTIONS

1) What is the relationship between Regulation (EU) No 1308/2013 and Regulation (EU) No 1169/2011[3], concerning the labelling of the list of ingredients and the nutrition declaration?

Article 118 of Regulation (EU) No 1308/2013 (CMO Regulation), on the applicability of horizontal rules, stipulates that Regulation (EU) No 1169/2011 (FIC Regulation) applies to labelling and presentation, unless it is otherwise provided for in the CMO Regulation. This means that, for all rules that are not set in the sectoral wine regulation, the general labelling and presentation rules, as set up in the FIC Regulation, apply.

Therefore, for the nutrition declaration, the FIC rules generally apply, except for the specific rule defined in Regulation (EU) No 1308/2013, as amended by Regulation (EU) 2021/2117[4], concerning the possible use of electronic means for the provision of compulsory information, which obliges to present in any case the information on the Energy value on the physical label.

For the list of ingredients, the key legislation that applies is as follows:

a) General rules: relevant provisions in Articles 18 & 20 onwards of the FIC Regulation, and relevant Annexes (VI, VII);
b) Wine Specific rules: Delegated Regulation (EU) 2019/33[5], new Article 48a on the list of ingredients;
c) Labelling of allergenic substances: FIC Article 21 (Labelling of certain substances or products causing allergies or intolerances), and Delegated Regulation (EU) 2019/33 Article 41 and Annex I (labelling of allergenic substances).

General rules for the presentation of compulsory particulars, as defined in Delegated Regulation (EU) 2019/33, Article 40, concerning the field of vision and size of characters, apply to both the nutrition declaration and the list of ingredients.

2) How should the new compulsory information be presented on the label?

As new compulsory particulars, the nutrition declaration and the list of ingredients have to be provided in accordance with Article 40(1) of Delegated Regulation (EU) 2019/33, i.e. in the same field of vision of the container as other compulsory particulars.

The compulsory particulars to appear on the same field of vision are, thus, at least the following: i) the designation of the category of grapevine product (including if relevant the term 'de-alcoholised'/'partially de-alcoholised') with the exception provided in Article 119(2) of the CMO Regulation for certain wines with a protected denomination of origin or protected geographical indication; ii) the reference to a GI and its name; iii) the actual alcoholic strength by volume; iv) the indication of provenance; v) the name of the bottler/producer/vendor, as relevant; vi) the list of ingredients and vii) the nutrition declaration.

Where the nutrition declaration and/or the list of ingredients are made available by electronic means, the link (QR code or similar) to the compulsory information should be presented in the same field of vision.

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3 Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers (…). https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011R1169

4 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2021.435.01.0262.01.ENG

5 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0033

Where the full nutrition declaration is provided by electronic means, the energy value has to be presented in the same field of vision as the other compulsory particulars.

Where the list of ingredients is provided by electronic means, the substances causing allergies or intolerances have to be presented on the physical label, but not necessarily in the same field of vision as other compulsory information (the derogation of Article 40(2) of Delegated Regulation (EU) 2019/33 applies).

The derogation for certain compulsory particulars (Article 40(2) of Delegated Regulation (EU) 2019/33) also exempts from the obligation of presenting on the same field of vision the date of minimum durability (in case of de-alcoholised wines), the indication of the importer and the lot number.

3) At the date of application of the new labelling provisions, which wines in which stage of marketing have to show nutrition declaration and list of ingredients? E.g. wine in tank/keg/ barrels or only bottled wine? *(15/02/23)*

As a general rule, the new compulsory particulars shall apply to wines placed in the market from the date of application, i.e. 8 December 2023, with the exceptions defined in Article 5(8) of Regulation (EU) 2021/2117.

According to the FIC Regulation, Article 2, 'mandatory food information' means the particulars that are required to be provided to the final consumer; this applies irrespective of the container where the food is marketed. The responsibility of the operators in the supply chain regarding the new compulsory particulars in labelling and presentation is clarified by Article 8 of the FIC and in particular paragraph 7.

LIST OF INGREDIENTS

4) What form should the List of ingredients have? *(15/02/2023)*

The general rules of the FIC Regulation apply to the form of presenting the list of ingredients, as there are no specific rules defined for the wine. These rules are defined in Articles 18-23 of the FIC. Concerning the form of the list:

- The list of ingredients shall be preceded by a heading that contains the word 'ingredients'.
- The list of ingredients should be provided in descending order of weight, as recorded at the time of their use in the manufacture of the food. The ingredients constituting less than 2 % of the finished product may be listed in a different order after the other ingredients.
- Ingredients have to be presented by their specific name, with the exceptions provided for in the FIC Regulation and in Delegated Regulation (EU) 2019/33 (e.g. 'grapes' referring to the raw material).

5) How to name the additives and processing aids used in wine production? Should the additives be presented together with their technological function? *(04/04/23)*

According to FIC Annex VII part C, the designation of additives in the list of ingredients must be done by the name of their functional category, followed by their specific name, or the E Number if appropriate. The provisions on wine labelling do not modify this presentation rule.

Delegated Regulation (EU) 2019/934[6], in Annex I, Part A, Table 2, identifies the full list of additives and of processing aids that can be used in wine production, groups them into the relevant functional categories (Acidity regulators, Preservatives/Antioxidants, Stabilizing agents, etc.), and provides the terms to be used to name the functional categories and the substances to be listed in the list of ingredients, which can be presented by using the names specified (column 1) or, alternatively, the E numbers of the additives (column 2).

6) Are only allergenic additives and processing aids to be in the list of ingredients?

Food additives are considered an ingredient in the general definition of 'ingredient', as provided in the FIC Regulation (Article 2(2)(f)), and therefore all additives used in wine production are an integral part of the list of ingredients. In accordance with Article 20(b) of the FIC Regulation, food additives and enzymes used as processing aids are not required to be included in the list of ingredients. However, Article 9(c) of the same regulation provides for the mandatory indication of any ingredient or processing aid causing allergies or intolerances used in the manufacture of the product and still present in the final product, even in an altered form.

All additives and processing aids allowed in wine production in the EU are set out in the reference table (Annex I, Part A, Table 2) of Delegated Regulation (EU) 2019/934.

In summary, the list of ingredients must contain all additives used in the production of the labelled wine which are still present in the finished product even in an altered form, as well as all the processing aids used in the production of the labelled wine which cause allergies or intolerances.

7) How to deal with allergenic substances in the label?

All substances present in the final product causing allergies or intolerances must be indicated on the label. There are two possibilities for their presentation in the label:

a) Where the list of ingredients is presented on the label, all substances causing allergies or intolerances shall be indicated as ingredients within the list of ingredients, emphasized through a typeset (e.g. font, style or background colour) that clearly distinguishes them from the rest of the ingredients of the list, in accordance to Article 21 of the FIC Regulation.

b) Where the list of ingredients is presented by electronic means (i.e. not on the physical label), all substances causing allergies or intolerances and still present in the finished product (even if in an altered form) shall be indicated on the physical label. Their presentation must be preceded by the word "contains", followed by the name of the corresponding substance(s) or product(s), following the same method for referring to allergenic substances as already utilised in the wine sector for years. In such case, the full list of ingredients presented by electronic means should follow the same rules as described in paragraph a).

[6] Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files.
https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32019R0934

8) If a list of ingredients with allergenic substances is given on the label, can the allergen information be repeated in the form 'contains...' or by using a pictogram?

The information on substances causing allergies or intolerances should not be repeated. The FIC Regulation requires explicitly that information on substances causing allergies or intolerances shall be indicated in the list of ingredients. In the absence of a list of ingredients, the indication of such substances shall comprise the word "contains' followed by the name of the substance or product.

The use of a pictogram, as an optional piece of information accompanying the compulsory information elements, continues to apply as defined in Article 41(2) of Delegated Regulation (EU) 2019/33.

9) What are the rules for indicating the substances causing allergies or intolerances in the label?

Article 41 of Delegated Regulation (EU) 2019/33 provides for the terms that shall be used for labelling certain substances or products causing allergies or intolerances, as referred to in Article 21 of Regulation (EU) No 1169/2011, concerning sulphites/sulfites, eggs and egg-based products and milk and milk-based products., as those listed in Part A of Annex I.

Regulation (EU) 2019/33, as amended, allows for those terms to be used as well within the list of ingredients when it is presented on the package or on a physical label, for consistency reasons and taking into account that consumers are familiar therewith.

Paragraph 4 of new Article 48a of Delegated Regulation (EU) 2019/33 refers to the substances causing allergies other than those listed in the article 41, as certain known allergenic substances are not covered by Article 41. In these very limited cases, they must be listed in accordance with their identifying name, as presented in column 1, Annex I, Part A, Table 2, of Delegated Regulation (EU) 2019/934 (e.g. 'wheat protein').

10) Should the substances used for enrichment be indicated in the list of ingredients?

Yes, the substances used for enrichment are considered as ingredients in the meaning of Article 2.2(f) of the FIC Regulation insofar as they are added during the manufacture and present in the final product even if it is in an altered form, and therefore should be indicated in the list of ingredients.

11) How to mention sugar for enrichment in the list of ingredients? *(15/02/23)*

Authorised enrichment processes and substances are described in Annex VIII, part I of Regulation (EU) No 1308/2013. According to the rules defined for the list of ingredients for grapevine products in Article 48(2) of Regulation (EU) 2019/33, concentrated grape must and rectified concentrated grape must can be grouped together in the list of ingredients as 'concentrated grape must'. Sucrose, the other substance allowed for enrichment, must be listed separately. Annex VII, part B of the FIC Regulation, allows for 'all types of sucrose' to be designated by the name 'sugar', though that designation is not compulsory.

12) Do yeasts have to be listed as ingredients? *(15/02/2023)*

Yeasts for wine production do not have to be listed as ingredients. According to Annex I, part A, Table 2 of Delegated Regulation (EU) 2019/934, they are used as processing aids.

According to Article 20 of the FIC Regulation, additives used as processing aids are not required to be included in the list of ingredients. Other components or parts of the yeasts used with different functions in wine production, are also considered processing aids and therefore fall under the same exemption. The only yeast compound that must be mentioned in the list of ingredients is yeast mannoprotein since this is used as an additive.

13) ***If all possible alternatives in the group of acidity regulators and stabilising agents are indicated in the labelling, is there a specific order in which they shall be indicated?*** *(04/04/23)*

No. The only rules on order that apply are those described in the FIC Regulation. All substances in quantities below 2% do not need to follow a specific order.

14) ***Should the terms 'bottled in a protective atmosphere' or 'may be bottled in a protective atmosphere' be followed by an indication of the packaging gas used or, alternatively, should the possible packaging gas alternatives be listed?*** *(04/04/23)*

As paragraph 5 of new Article 48a of Delegated Regulation (EU) 2019/33 clearly states, '*the indication of additives falling under the category 'packaging gases' in the list of ingredients* ***may be replaced*** *by the specific particular 'Bottled/bottling may happen in a protective atmosphere'*. If one of these expressions are used, the specific gases used are to be listed neither in the list of ingredients, nor following the replacing specific particular. The reference to packaging gases must be presented, when used, in the same field of vision as the list of ingredients.

Where the packaging gases are indicated in the list of ingredients (i.e. if the specific particular is not used), they should be presented following the same rules as for other additives (i.e. functional category, followed by the name or E number).

15) ***If packaging gas alternatives are indicated, is there a specific order in which the packaging gases must be indicated?*** *(04/04/23)*

The regulation does not allow listing alternative packaging gases. The specific gas used should be presented in the list of ingredients, whenever they are not replaced by the specific particular *'Bottled/bottling may happen in a protective atmosphere'*.

16) ***How should the main ingredient of a wine be indicated on the label? According to the definition, wine is made from whole or crushed grapes or grape must. Grape must is a natural intermediate product made directly from grapes. In which situations, therefore, must should be indicated as an ingredient and in which situations grapes should be indicated as an ingredient?*** *(04/04/2023)*

The indication of the 'the main ingredient' can be done by listing exactly whether grapes, crushed grapes and/or grape must have been used, or by replacing them all by the single term 'grapes'. The provision offers a possible simplification to operators, that they can apply on a voluntary basis.

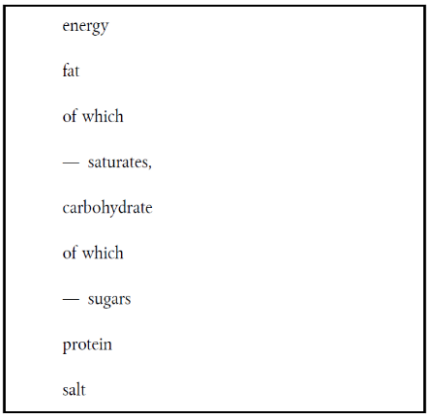
NUTRITION DECLARATION

17) What is the form to present the nutrition declaration? Should it be a Table, or are there other possible forms? *(15/02/23)*

The presentation of the nutrition declaration is regulated in Article 34 of Regulation (EU) No 1169/2011.

If space permits, the nutrition declaration must be presented in tabular format with the numbers aligned. Where space does not permit the tabular presentation, a linear format may be used. When the nutrition declaration is provided off label, it is interpreted that it should be presented always in tabular format with the numbers aligned, as the provision for space limitations would not apply.

The order of presentation of the different elements of the nutrition declaration is defined in Annex XV of the FIC Regulation. For the compulsory elements, this order would be: Fat (of which saturates,…); Carbohydrate (of which sugars,…); protein, salt. Or, in tabular format:



There are also specific rules for the order of other elements that may be added to the nutrition declaration (e.g. polyols) but are not compulsory.

Where the content is limited to the energy value, i.e. in cases where the full nutrition declaration is provided online, the energy value may be presented in a format different from the one specified above, according to Article 34(4) of the FIC Regulation. Moreover, the new paragraph (4) of Article 119 of the CMO Regulation, as amended by Regulation (EU) 2021/2117, explicitly allows to express energy by the letter "E" followed by the value.

18) Regulation 1169/2011 foresees - besides the energy value - the declaration of the amounts of fat, saturates, carbohydrate, sugars, protein and salt. If there is no content in wine (e.g. for fat or saturated fat. Has the content to be shown by '0' or is there simply no need to show fat on the label? *(15/02/23)*

Article 34(5) of Regulation (EU) No 1169/2011 provides for the cases where the energy value or the amount of nutrient(s) in a product is negligible. In such case, the information on those elements may be replaced by a statement such as 'Contains negligible amounts of …', indicated in close proximity to the nutrition declaration.

Otherwise, all the compulsory elements must be indicated in the order stipulated in Article 34 of the FIC Regulation, including for zero values.

19) *Is any other component, besides fat, saturates, carbohydrate, sugars, protein and salt* necessary *in the nutrition declaration?* *(15/02/23)*

According to Article 30 of the FIC Regulation, the mandatory nutrition declaration must include the energy value and the amounts of fat, saturates, carbohydrate, sugars, protein and salt. The mandatory content may be supplemented with an indication of the amounts of one or more of the following, where relevant: mono-unsaturates; poly-unsaturates; polyols; starch; fibre; any of the vitamins or minerals listed in point 1 of Part A of Annex XIII, and present in significant amounts as defined in point 2 of Part A of Annex XIII of the same Regulation.

20) *How* are *the values of the different nutrition elements fixed? Is an analysis for every wine and every harvest necessary or can values also be calculated (e.g. for calories via the alcohol content and the residual sugar)?* *(15/02/23)*

For the values of the nutrition declaration, the relevant articles of the FIC Regulation apply.

According to Article 31 (calculation), the values in the nutrition declaration are average values, based on: a) the manufacturer's analysis of the food; b) the known or actual average values of the ingredients used; or c) generally established and accepted data.

The energy value must be calculated using the conversion factors provided in annex XIV of the FIC Regulation, and indicated in kilo joules (kJ) and kilo calories (kcal).

Energy values and nutrition values must be indicated per 100 g or per 100 ml (Article 32 of FIC Regulation).

21) *Due to the nature of wine production, individual batches may differ from one another. What is the tolerance limit for the difference between the information on the label and the actual energy and nutrient content of the wine?* *(04/04/23)*

The tolerances for the nutrition declaration of wine are the same as defined in Regulation (EU) No 1169/2011, which indicates that the energy and nutrient content should be labelled as the 'average value', which according to Annex 1, point 13, means the value that best represents the amount of the nutrient which a given food contains, and allows for natural variability of foodstuffs, seasonal variability, patterns of consumption and other factors which may cause the actual value to vary.

The Commission produced a Guidance document[7] for competent authorities, tolerances for the control of compliance of nutrient values declared on a label with EU legislation, and a summary table[8] gives an overview of the different tolerance values included in the guidance document. In case of doubt, the guidance document text should be consulted as the official reference.

The Guidance document states that Food business operators should act in good faith to ensure a high degree of accuracy of the nutrition declaration. Declared values should approximate to the average values across multiple batches and should not be established at either extreme of a defined tolerance range.

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7 https://food.ec.europa.eu/document/download/3eb7952a-43b8-4c6a-8091-349ea707a9a7_en?filename=labelling_nutrition-vitamins_minerals-guidance_tolerances_1212_en.pdf

8 https://food.ec.europa.eu/document/download/0f159c23-d829-4f99-b151-77ff97b73e7b_en?filename=labelling_nutrition-vitamins_minerals-guidance_tolerances_summary_table_012013_en.pdf

For the indication of the alcohol content, however, the rules on tolerance in Article 44 of Delegated Regulation (EU) 2019/33 apply.

22) What are the tolerances between the values shown on the label and the real content in the wine, in particular in the case where the shown values might change during the years the wine ages? *(15/02/23)*

According to Article 31(3) of the FIC Regulation, the energy value and the amounts of nutrients referred to in Article 30(1) to (5) shall be those of the food as sold, considering also the tolerances referred to in the previous question.

23) What size should the characters have? *(15/02/23)*

The general rules on presentation of compulsory particulars of grapevine products, as defined in Article 40 of Delegated Regulation (EU) 2019/33 apply for the size of the characters of the nutrition declaration, and the list of ingredients. According to these, the size of the characters must be equal to or greater than 1,2 mm, regardless of the character format used.

ELECTRONIC LABELLING

24) Will a specific system/software for providing information by electronic means be compulsory? *(27/03/23)* ***Can the full nutritional information provided by electronic means indicated on the packaging be done by the less common 2d codes?*** *(04/04/23)*

The CMO Regulation does not specify which specific electronic means should be used for providing information nor any specific electronic types of access to such information. The Commission does not have a specific empowerment to define more rules on e-labelling and further defining the specific electronic means to provide access to such information.

The provision of information can in principle be made by any electronic means, electronic labelling or e-labelling means ready accessible through a barcode of any kind (QR, 2D other than QR, 1D, color, a chip) that links to online information.

In principle, the display of the link to the electronic information on the physical label should be in line with the requirements listed in article 13(1) of the FIC Regulation for the presentation of mandatory particulars, namely marked in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible; not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material.

Moreover, it should provide easy, direct, and universal access to the information, in a way that is comparable to the presence on the physical label. Providing highly specialised or uncommon means of access to information would not seem to fulfil the aims of e-labelling as a supporting tool for the provision of information to consumers and would risk being immediately disregarded as a means of providing basic information. The only condition set-up in legislation concerning users is that the system to be used shall not collect or track user data.

The electronic means/platform on which the information is placed should provide comparable guarantees to the physical label, in terms of readability of the information, stability, reliability, durability and integrity of the information during the whole life of the product. Guaranteeing these features seems questionable if the information would be placed in a producer's website that could be easily modified at any time, even when the product is already in the market.

25) Can the full nutrition declaration and the list of ingredients available by electronic means* be *done by a QR code on the wine label, linking to an electronic label containing the full declaration and list of ingredients? *(09/22)*

The CMO regulation, as amended by Regulation (EU) 2021/2117, provides that both the nutrition declaration and the list of ingredients may be provided 'by electronic means identified on the package or on a label attached thereto'. QR codes are indeed one possible method to give consumers access, in the label or in the package, to the electronic information referred to above.

26) Can a QR code be added as an additional "sticker", besides the original bottle label, or has it to be* part *of the producers' original label?

The Commission notice on questions and answers on the application of Regulation (EU) No 1169/2011[9], section 2.2, provides that "*labels must not be easily removable so as to jeopardise the availability or the accessibility of the mandatory food information to the consumer*".

In addition, the provision of the detailed information of compulsory particulars (like the list of ingredients and the nutritional value) by electronic means does not withdraw the obligation to present the relevant information according to the EU legislation, irrespective of whether the QR code would be a sticker or not. It must be ensured that, according to Article 40(1) of Delegated Regulation (EU) 2019/33, the information relevant to the list of ingredients and the nutrition declaration, which are compulsory particulars (Article 119 of Regulation (EU) No 1308/2013), appear in the same field of vision, to be simultaneously legible without having to turn the container, in indelible characters and clearly distinguishable from surrounding text or graphics.

27) Are there any design specifications regarding the nutrition declaration and electronic portrayal of it, or if it is open to design customization?

The rules for presenting the nutrition declaration are those defined in the horizontal legislation on the FIC Regulation, section 3 and also described in the section above (see also section 3 of the Commission notice on questions and answers on the application of Regulation (EU) No 1169/2011[9]). Those rules apply to the nutrition declaration, be it presented on the physical label or by electronic means.

28) Is it* possible *to link, via a QR Code or similar, the "electronic label" presenting the full nutrition declaration and list of ingredients to the homepage of the producer as a part of its website? *(15/02/23)*

No. The amended Article 119 of the CMO Regulation provides that the information on the full nutritional declaration and list of ingredients shall not be displayed with other information intended for sales or marketing purposes, and that no user data shall be collected or tracked. In the view of the Commission, the presentation of this compulsory information as part of the producers' website would appear to infringe the conditions set by article 119, as the website of a wine producer is never neutral and always contains information relevant for marketing and/or sales. In addition, websites normally track information on the users.

[9] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2018:196:FULL&from=EN

29) Can manufacturers specify additional QR codes on labels other than codes that are 'electronic means' on which marketing information is displayed? *(04/04/23)*

The provision of additional voluntary information on the label, such as an additional QR code, is regulated by Article 118 of the CMO Regulation, according to which labelling of grapevine products may not be supplemented by any additional particulars unless they satisfy the requirements of Regulation (EU) No 1169/2011.

The FIC Regulation, in Article 36(2), stipulates that food information provided on a voluntary basis shall not mislead the consumer, as referred to in Article 7; shall not be ambiguous or confusing for the consumer; and shall, where appropriate, be based on the relevant scientific data. Article 37 provides that such information shall not be displayed to the detriment of the space available for mandatory food information.

Any use of additional QR codes should avoid any possible interpretation of being misleading or creating confusion to consumers, and should not detract any space from the compulsory particulars, which would include the codes providing access to compulsory information by electronic means.

30) Is it possible to make one single QR code, which will perform the role of EAN code and will also be the bearer of mandatory data, such as the list of ingredients and nutrition values? *(20/04/23)*

The fact that there are different pieces of mandatory information does not justify their presentation using a single link to the digital repository of that information The main consideration concerning the presentation of information should not be whether it is compulsory or not, but to whom that information is addressed and what is the objective of different pieces of information.

In the case of the compulsory labelling information that can be provided by using electronic means (list of ingredients and nutrition declaration), the target public are the consumers, who should be able to obtain immediate access to information and avoid any possibility of misleading them. The EAN information is not aimed at the consumers, but to facilitate operators (manufacturers, sellers, suppliers) to identify the merchandise and facilitate and monitor marketing operations.

It does not seem evident how all this information could be presented in a clearly dissociated manner when scanning one single QR code to fulfil two different objectives, and it does not seem reasonable to expose consumers to information that is irrelevant from the food information to consumers' point of view, when scanning a single code.

31) Would a website address printed on the label where the consumer can find the relevant information meet this requirement? *(04/04/23)*

A simple website address printed on label is not a sufficient means of fulfilling labelling obligations. By definition, an e-label has to be a machine-readable code that provides direct access to the relevant information. A universal access machine, such as a smartphone, has to be able to read/scan a code and convert it immediately to a URL for a website.

32) Is it possible that the labels of different wines from the same producer will contain additional information, by electronic means, on the same website, or should each type of wine have a separate website link? *(04/04/23)*

Compulsory information of different wines presented in e-labels may be presented on the same site, but the link of each particular label should unambiguously lead to the specific information of one single wine, in a clearly differentiated way and providing a simple access to consumers, avoiding any possibility of misleading them, in exactly the same manner as an individual paper label does to identify one specific food product.

33) Regarding "data collection," we would like to know whether the consent of the data subject could make the data collection legitimate.

The Regulation is clear that the information on the full nutritional declaration and list of ingredients shall not be displayed with other information intended for sales or marketing purposes, and that no user data shall be collected or tracked. There are no exceptions to this rule, and therefore it does not allow to request consent for the user on whether their data can be tracked or not. In addition, the access to compulsory information by consumers/users should be direct and without any intermediate steps, such as filling any forms or queries, or passing through intermediate sites. We would expect that the code, once read/scanned, would take the user immediately and directly to the compulsory labelling information.

34) What is the interpretation about the concept of 'for marketing purposes'? To what extent can the inclusion of a claim in the electronic label (e.g. about sustainability, the origin of the product, or certification, etc.) be considered optional information to be legitimately included in the label? And when can this claim be considered "marketing" instead?

The provision of additional voluntary information on the label (e-labels included) is regulated by Article 118 of the CMO Regulation, according to which labelling of grapevine products may not be supplemented by any additional particulars unless they satisfy the requirements of Regulation (EU) No 1169/2011 (FIC Regulation). Notably, the FIC Regulation, in Article 36(2), stipulates that food information provided on a voluntary basis shall not mislead the consumer, as referred to in Article 7; shall not be ambiguous or confusing for the consumer; and shall, where appropriate, be based on the relevant scientific data. In addition, Article 37 provides that such information shall not be displayed to the detriment of the space available for mandatory food information.

35) Would the inclusion on the label of a link to a winery's e-commerce website could be considered a marketing purpose?

The inclusion of an e-commerce website or a winery website is undoubtedly considered as 'marketing purpose'.