

Dr. Katja Povhe Jemec, Ministry of Health
Mag. Mira Kos Skubic, Ministry of Agriculture, Forestry and Food

Ljubljana, 24 October 2018

Dear all,

We are writing to express our deep concern with on-going developments regarding simplified nutrition labelling schemes based on portion sizes, as we believe they are neither compliant with EU food labelling law¹ nor helpful for consumers to make healthier food choices.

BEUC and European Consumer Organizations have long supported the introduction of a mandatory European front-of-pack nutrition labelling scheme based on colour-coding. Whereas such labelling was not made mandatory at the time the Food Information Regulation was being negotiated, the EU legislation allows Member States to introduce their own schemes².

In the meantime, however, we observe the development of schemes, designed either by industry operators or national authorities, which fail to fulfil the legal requirements as set out in the Food Information Regulation.

The Evolved Nutrition Label (ENL), proposed by five multinational food and beverage companies, is one example³. It seeks to adapt the UK traffic light front-of-pack nutritional label: the colour code for 'smaller portions' would depend on more lenient criteria than for bigger ones. The companies behind this scheme have recently pledged to begin testing it across Europe, including in countries where Member State authorities have already officially recommended another scheme.

This scheme, in our view, contravenes the Food Information Regulation for the following grounds:

- **Simplified nutrition labelling schemes shall not mislead consumers**

We strongly support colour-coding if based on uniform criteria to help consumers decipher nutritional information more easily. However, colour-coding based on portion sizes, as proposed by the ENL companies, will mislead consumers.

¹ See requirements for additional forms of expression of the nutrition declaration as laid out in Article 35 of the Food Information to Consumers Regulation (1169/2011).

² 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

³ Nestlé, Unilever, Mondelez, Coca Cola and PepsiCo

Consumer understanding of a nutritional labelling scheme should enable simple and efficient comparison both *between* and *within* product categories. Consumers will not be able to easily compare different products if the colours of the scheme may vary when used for bigger or smaller portions. Moreover, portion sizes which are currently assigned by the companies themselves are often unrealistically small.

As modelling undertaken by the companies themselves shows, the main effect of the ENL is that, for portions under 50g, the number of 'reds' for fat, sugar and/or salt tends to fall significantly when compared to the original UK traffic light scheme⁴. But contrary to the companies' claims, there is no consistent evidence that the ENL encourages consumers to eat smaller portions, rather the opposite⁵.

- **Simplified nutrition labelling schemes shall be based on robust consumer research showing objective consumer understanding**

The ENL companies are yet to present convincing evidence that average consumers understand their scheme. Consumer research underpinning the ENL appears to be largely declarative and fails to demonstrate whether the scheme effectively helps consumers to assess the nutritional value of food products or not⁶.

The ENL companies have announced their intention to test their scheme across Europe from the end of 2018 until the end of 2020 to gather consumer insights⁷. Yet it took only ten weeks for the French government-led trial of NutriScore to generate a solid evidence base. We are concerned that the ENL scheme, which has not demonstrated robust evidence of effectiveness but has strong potential to mislead consumers, could be permitted to be used for two years in the EU before providing results.

- **Simplified nutrition labelling schemes shall be developed in consultation with a wide range of stakeholders**

We would question whether the ENL scheme could be considered to have fulfilled this stipulation. The ENL had been in private development by the companies for over a year and a half before it was presented to consumer and public health groups. Unfortunately, by that stage, the most contentious aspect, portion-sized criteria, had become a fixed component of the scheme for the ENL companies. It was therefore clear that the possibility for consumer groups to have any significant input into the development of the ENL would have been limited.

We believe that any consultation of stakeholders should be conducted in an open and transparent manner throughout the process.

⁴ <https://evolvednutritionlabel.eu/enl-taskforce-circle-2-meeting-7-september-2017-brussels-belgium/>

⁵ Egnell M, Kesse-Guyot E, Galan P, Touvier M, Rayner M, Jewell J, Breda J, Hercberg S, Julia C, *Impact of Front-of-Pack Nutrition Labels on Portion Size Selection: An Experimental Study in a French Cohort*. *Nutrients* 2018, 10, 1268

⁶ <https://evolvednutritionlabel.eu/outcome-of-the-consumer-research/>

⁷ Évaluation Expérimentation Logos Nutritionnels : Rapport Pour le FFAS', O.Allais, P. Albuquerque, C. Bonnet, P. Dubois, March 2017

Against this background, we do not believe that simplified nutrition labelling schemes which do not fulfil the criteria laid down in the food labelling legislation should be allowed on the market, even under the guise of a 'testing' phase. We would therefore urge you to not permit the 'trailing' of the ENL scheme on the [Member State in question] market.

We thank you in advance for considering our comments. We remain at your disposal for any questions you may have.

Yours sincerely,

Breda Kutin, president, ZPS

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