

01 October 2015

**CODEX COMMITTEE ON FOOD LABELLING
(Forty-third Session)
Ottawa, Ontario, Canada, 9 - 13 May 2016**

**European Union Comments on
CL 2014/30-FL:**

**Date Marking (Proposed Draft Revision of the General Standard for the
Labelling of Prepackaged Foods) (At Step 3)**

*European Union Competence.
European Union Vote*

In reply to Circular letter CL 2014/30-FL, the European Union (EU) would like to submit the following comments.

General comments:

The proliferation of different terms used globally for date marking has been identified as the main factor causing consumer confusion and misunderstanding and also as contributing to the food waste. Therefore, the EU believes that the number of terms related to the date marking should be considerably limited in the General Standard for the Labelling of Pre-packaged Foods¹ (GSLPF).

Date marking is an important piece of information for manufacturers, retailers and consumers to maintain food safety and quality. It enables consumers to identify and use safely both highly perishable foods and foods with a longer shelf life. Therefore, in principle, all foods should provide such information. Only foods for which date marking would not be relevant for ensuring maintenance of their safety and quality should be exempted from such a requirement. The EU supports the retention of the current exemptions' list as provided in the GSLPF. Any possible change should be duly substantiated.

¹ CODEX STAN 1-1985

Specific comments:

1. Paragraph 2 on the definition of terms

Date of Manufacture – The EU agrees on the new definition.

Date of Packaging – The EU agrees on the new definition.

Sell by Date – The EU agrees on the proposed deletion.

Date of minimum durability – The EU proposes to simplify the definition by using only the term “Date of minimum durability” “” and deleting the synonyms “” Best before Date and “Best Quality Before Date”. However, the term “Best before” should be retained as the form of expression for the “Date of minimum durability” (see point 4.7.1(iv)).

The EU is of the opinion that the variety of expressions for date marking should be limited as the greater the number of terms defined for date marking, the higher the risk of creating confusion and lack of understanding. Therefore, limiting the numbers of terms defined in the GSLPF should remain the main objective for the revision of the current standard.

The definition would then read:

“Date of Minimum Durability” ~~or “Best before Date” or “Best Quality Before Date”~~ means the date which signifies the end of the period, under any stated storage conditions, during which the product will remain fully marketable and will retain any specific qualities for which implied or express claims have been made. However, beyond the date the food may still be acceptable for consumption.

Use by date – The EU proposes to simplify the definition by deleting the synonyms “use or consume by date”, “expires by” and “expiration date” for the reasons detailed above.

The definition would then read:

“Use-by Date” ~~or “Use or Consume by date” or “Expires by” or “Expiration Date”~~ means the date which signifies the end of the period, under any stated storage conditions, after which the product should not be sold or consumed due to safety reasons.

2. Paragraph 4.7 on date marking and storage instructions

Section 4.7.1 (i) - The EU proposes the following changes for the reasons already mentioned above:

When a food must be consumed before a certain date to ensure its safety the “Use-by Date” ~~or “Use or Consume by date” or “Expires by” or “Expiration Date”~~ shall be declared.

Section 4.7.1 (ii) - The EU proposes the following changes for the reasons already mentioned above:

Where a Use-by Date ~~or Use or Consumed by date or Expires by or Expiration Date~~ is not required the ~~Best before Date or Best Before Quality Date or Date of Minimum Durability~~ shall be declared.

Section 4.7.1 (iii) – The EU notes that the current text of the standard limits the date marking to the day and the month. The EU does not see the reasons for the proposed change for including the year. Requiring the day, month and year for products whose shelf life is not more than three months appears burdensome and not useful.

The risk to have consumer misled by a product whose labelled shelf life would be 1 year over the initial and real shelf life seems only theoretical. Indeed, products having a shelf life lower than three months are fresh or semi fresh products, whose appearance after one year of additional shelf life would anyhow discourage consumption. The EU could reconsider this position if there were evidence of possible consumer abuse with this date format. Therefore the EU would prefer section 4.7.1 (iii) to read as follows:

The date marking should be as follows:

- On products with a durability of not more than three months the day and month ~~and year~~ shall be declared;
- On products with a durability of more than three months at least the month and year shall be declared.

Section 4.7.1. (iv) - The EU notes that requiring the abbreviations accompanying the date mark whenever the latter is declared only in numbers or where the year is expressed as only two digits, would imposed disproportional burden on food business operators. Such additional statement should remain a voluntary requirement. Consequently, the EU proposes to amend the text in the following way:

The day and year ~~shall may~~ be declared by uncoded numbers ~~numerical sequence except that~~ with the year to be denoted by 2 or 4 digits, and the month shall be declared by letters or characters or numbers. ~~in those countries where such use will not confuse the consumer.~~ Where only numbers are used to declare the date or where the year is expressed as only two digits, the sequence of the day month and year must may be given by appropriate abbreviations accompanying the date mark. (e.g. DD/MM/YYYY) ~~The declaration of the month in date marking shall be consistent with 8.2~~

Section 4.7.1 (v) - The EU observes that the proposed text limits the scope of certain exemptions.

The existing list of derogations encompasses foods for which the deterioration is clearly visible for the consumer, like fresh fruits and vegetables, but also alcoholic beverages containing at least 10% alcohol by volume and ingredients which have a lower stability behaviour related to their shelf life. It also includes products for which there is no substantial reduction of quality and whose properties exclude the growth of pathogens or even reduce

them. This list had been incorporated into different national legal systems across the world for decades. Therefore, the EU would like to know what are the reasons and the justifications of the proposed changes concerning the limitation of the exemptions for vinegar and salt.

Therefore, the EU would prefer the following text for the list of exemptions:

Notwithstanding 4.7.1 (i) and 4.7.1 (ii) a ~~date of minimum durability or best before date or best before quality date~~ shall not be required for:

- fresh fruits and vegetables, including tubers which have not been peeled, cut or similarly treated;
- wines, liqueur wines, sparkling wines, aromatized wines, fruit wines and sparkling fruit wines;
- alcoholic beverages containing at least 10% alcohol by volume, ~~except those beverages that contain ingredients with protein such as milk and dairy products, eggs and derivatives and plant material which will have a different stability behaviour related to their shelf life.~~
- bakers' or pastry-cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture;
- ~~naturally fermented white or brown vinegar and white or brown acetic acid vinegar;~~
- ~~non-iodized~~ food grade salt
- solid sugars;
- confectionery products consisting of flavoured and/or coloured sugars;
- chewing gum.

Regarding the text related to the need of a date mark when a best before date or a use by date is not required, the EU would like to indicate that some other types of date marking, such as a baking date for a bakery product or a freezing date for a frozen product or date of manufacture for products such as those that mature during their normal shelf-life, may convey useful information on the freshness and/or quality of a product. The possibility to indicate such dates should therefore be kept regardless as to whether a best before or a use by date is required, while it does not seem essential to require mandatorily such date.

In order to avoid any misunderstanding about the meaning of the manufacturing date and the packaging date, the EU proposes the addition of a text similar to the one of paragraph 4.7.1 - (iv) requiring introductory words.

Regarding the need to ensure that only one date is labelled, the EU does not believe that consumers can be misled with more than one date, provided they are well defined on the label. Therefore, the EU is not in favour of the proposed additional text that would ensure that only one date mark should be used.

The EU would therefore be in favour in deleting from the 4.7.1.(v) provision the sentence: *Where a product is not required to bear a date mark in accordance with 4.7.1(v) provision the “Date of Manufacture” or the “Date of Packaging” may/shall be used* and would like to propose a new point 4.7.1(vi) with the following text:

Section 4.7.1 (vi)

“Date of Manufacture” or “Date of Packaging” may be voluntary used on foods.

These dates shall be declared by the words "manufacturing date" or “packaging date” or otherwise determined at the national level. These words shall be accompanied by either the date itself or a reference to where the date is given.

~~[(x) Only one [type of] date mark should be used on a product at any one time.]~~

Section 4.7.2 -

The storage conditions should be provided for both dates “use by” and the “date of minimum durability”. Therefore, the EU proposes the following changes:

In addition to the ~~date of minimum durability~~ date mark, any special conditions for the storage of the food shall be declared on the label where they are required to support the integrity of the date mark and if the validity of the date depends thereon.