MINUTES	Ref: LLWG/24/001
Meeting date: 4 January 2024	
Group Meeting: Minutes Labelling & Legislation WG	
Location: Teams	

ATTENDEES

Lorraine Eve	Tesco
Ash Stretton	M&S
Owen Evans	Amazon
Sarah Wood	ALDI
Mathew Willis	Morrisons
Cheryl Thompson	Co-op
Jared Winder	WH Smith
Jean Marshall	Waitrose
Simon Maguire	Asda
Geraldine Roberts	Iceland
Chris Newbold	Ocado
Alexandra Howard	Krispy Kreme
Marina Persoglio	Costa
Lesley Fairhurst	Spar
Rachel Vickers	Starbucks
Sandeep Topiwala	Dominos
Steven Carroll	TK Maxx
Gill McGee	Lakeland
Chloe Miller	Greggs
Ann Burrell	Boots
Amber Kill	Boots

John Counihan	Musgrave
Andrea Martinez-Inchausti	BRC

1. COUNTRY OF ORIGIN

The Secretary of State for DEFRA was speaking at the Oxford Farming conference. We had been informed he was making some statement on country of origin.

Post meeting note. The SoS stated the following: "*We will also explore whether existing country of origin labelling rules can be strengthened by mandating how and where origin information is displayed. For example, on the front of packs, meaning farmers are fairly rewarded for meeting and often exceeding high UK welfare standards*".

We are likely to be contacted by the SoS's office and DEFRA over the next few weeks to explore what can be done through guidance and on voluntary basis, due to the limited amount of time this Government has before the national election.

1. NOT FOR EU LABELLING

We have heard the consultation is likely to be published at the beginning of February. They will have to consider the responses after the 8-week consultation. This timeline is very challenging if they want to stick to the timeline of October 2024 for all label changes for products in phase 1 and 2.

A member explained the GB-NI forum meetings which take place every other week has lost lots its meaning. Questions had been asked at the last one, on the challenging timing for labelling changes, and DEFRA had ignored them. That forum is focusing on biosecurity and TOMS issues.
We understand DEFRA is working on the exemptions, but conversations with them suggest they have not realised the complexity of aligning labelling between GB and NI for certain products, which depending on the origin cannot be sent to NI.

2. ALLERGENS IN LOOSE FOODS

The group discussed the implications of the decision by the FSA Board to provide information for allergen in writing for loose foods. All members already provide that information in writing and based on the discussion at the Board meeting, members felt comfortable with the decision. One of the things to watch out is any prescription on the manner in which is the information is to be provided. The Board was keen on flexibility; however, it is unclear how the executive will take this forward. One specific issue would be any requirement to provide information for those products at the point of delivery. Some members currently provide a website or number to be contacted to obtain allergen information on a receipt accompanying the goods, but the specific information does not accompany the goods. We must avoid this being made a requirement. The cost would be astronomical, since it will require a software update. It would also be unmanageable for delivery drivers. There was also a concern that if this was ever a requirement, it could set a precedence and other information requirements like nutrition could follow.

Discussions will start at the Allergy and Hypersensitivity advisory group, which Andrea is part of, in a couple of weeks' time. Members will be kept updated.

3. FOLIC ACID FORTIFICATION

BRC had shared with members the recent opinion of the national committee of toxicology (COT) on folic acid. The opinion was confusing, because the questions asked was confusing. DEFRA had asked whether those allergic to folic acid would be at risk if products fortified with folic acid were not labelled for 3 months. We have always known allergy to be addressed as someone being allergic or not. If 3 months of non-declaration of folic acid are acceptable, why not 2 years.

Devolved administrations are concerned about those claiming to be allergic to folic acid. The millers have explained once folic acid is introduced, there is not going back to unfortified flour. The devolved administrations do not want to allow uncleared folic acid. This means industry will need to change labels over the 2-year transitional period and folic be added to flour towards the end of that period. DEFRA wants the positive effect of folic acid to start earlier – not to have to wait another 2 years.

This 3-month suggestion does not help millers or bread producers. It is unclear how DEFRA came ot this suggestion.

4. CBD

Several members had taken part in the stakeholder discussions organised by FSA on the next steps for CBD oil. The group had a discussion which will be reflected in a note which Andrea will send to FSA with retailers' views.

Questions:

1. Has anything changed for you following on from our updated consumer guidance? It was felt that this question was mainly aimed at manufacturers. The group was clear that compositional changes to the recipe submitted in the application, which was part of the validated list, were not allowed, however we have received different advice on whether labelling changes to the products in the validated list were permitted or not. Clarification would be welcome.

2. What would you like from FSA Public List Policy? FSA should use the 'Smarter Comms' to send updates to registered parties, whenever the status of a product in the validated list changes. Notification is key.

   There are several examples, PDO/PGI and nutrition and health claims, for which the available tables enable searches which make the status of each product or claim clear:

   - New application – not allowed on the market
   - Validated application – allowed on the market
   - Rejected – not allowed on the market

- Approved – allowed on the market

3. What are reasonable implementation timelines for any updated Public List policy? The FSA has been clear from the begging that if the validated application received a rejection, the product needs to be immediately withdrawn from the market. This position must not change. The novel food application process looks to prove that the product is safe to be consumed. If the evidence submitted cannot prove this, the product could be unsafe and should not be allowed on the market with immediate effect.

   Allowing a transitional period will create confusion and will be difficult to manage consistently. The contractual agreements between retailers and suppliers of these products have been drawn on the basis that an immediate withdrawal would be required if the product application was not successful.

   The FSA must produce clear guidance clarifying that when a product application is rejected, the brand owner must notify all the retailers stocking the product and remove the product from the market immediately. One set of guidance should be produced. We believe FSA must avoid tailoring communication to different interested parties. This leads to different understandings, and as we have seen with the recent announcement about the 10mg ADI, to brands playing off each other, and playing retailers against each other. This should be avoided.

   When FSA makes a decision on these matters, we would welcome one common briefing, again, so all interested parties get the same message.

5. IN PERSON MEETINGS

The dates of 7 March and 3 October were agreed for the in-person meetings in 2024.

6. OTHER ISSUES – UPDATES

Changes to recycling labelling – As part of the packaging extended producer responsibility (EPR) agenda, DEFRA has announced their intention to move forward with mandatory recyclability labelling. This requirement will apply to both food and non-food.

This is the policy announcement:

Government will proceed with its proposal to require mandatory recyclability labelling on packaging and in bringing forward these requirements in regulations will ensure these are consistent with our World Trade Organisation obligations. Defra has agreed with WRAP the use of the Recycle Now recycle mark on packaging. This agreement will apply to packaging only and means that those producers who are required to label their packaging can use this recycle mark. This will enable a single approach across the UK. Producers will be required to label packaging using the Recycle Now mark and relevant wording (recycle/do not recycle). We will place the key requirements within the regulations and publish guidance to help producers understand the requirements. Producers could choose to subscribe to a labelling scheme and use the services provided by that scheme.

Enhancements to labels (such as 'in the UK') will not be a regulatory requirement but advice will be included in guidance. There will not be a de minimis threshold. We accept the practical issues associated with our proposal to place the requirement to label packaging on the business that sells unfilled packaging to the end user. We will require the packaging manufacturer to provide packaging recyclability information to the distributor who sells unfilled packaging to small and micro businesses (or small and micro businesses when selling the packaging direct). The business purchasing unfilled packaging for their products will be required to factor into their recyclability assessment any alterations they make to the packaging before applying a label. All packaging types (except for plastic films and flexibles) will be required to be labelled as 'recycle' or 'do not recycle' by 31 March 2026. Plastic films and flexibles will need to be labelled as 'recycle' or 'do not recycle' by 31 March 2027. Advice regarding labelling of plastic films and flexibles whilst the collection infrastructure is rolled out will be included in the guidance. The revised timescales will avoid excessive and unnecessary costs for producers and provide sufficient time for recyclability assessments to be completed.

A meeting will be set up in Q1 with food and non-food members, DEFRA and OPRL, to receive and update and discuss these future provisions.

AI – 16-week exemption – The delay in the publication of the consultation to replace this specifically timed exemption with more general provisions which relay on the Chief Veterinary Office to determine a suitable exemption timeframe relevant for each outbreak, is due to reluctance from the Welsh agriculture Minister. We have been in touch, jointly with BEIC and NFU and are hoping to have a meeting with her to answer all her concerns in the next few weeks.

CAP consultation – The Committee of Advertising Practices (CAP) has published a consultation on the implementation of the restriction on TV advertising (5am to 9pm watershed) and paid for online advertising. The advertising group will meet up with CAP and discuss our response to that consultation in the next couple of weeks.

Jams, Honey and Juice Directives – The European Parliament voted on the legislation which amend these breakfast Directives. Changes to honey are the most controversial and will have the strongest impact. BRC will send a separate brief with the changes coted through. This is not the end of the process. The Commission will need to prepare a compromise text to be agreed by all 3 parties: Commission, Council and Parliament.

Wine labelling – Information on wine has been uploaded in the Gov.uk website, explaining that the changes to the reference to 'importer' on wine labels, only applies in England. The Internal Market Act applies, and therefore goods marketed in England according to English law will be allowed to be sold in Wales and Scotland. The issue relates to wine coming into Wales and Scotland ports. Those will be required to be labelled according to Welsh or Scottish legislation. It is very difficult to change the route into market, especially with the required timescale.

BRC will speak to the devolved Governments.

Regarding Northern Ireland, goods produced and labelled in Northern Ireland will follow NI legislation based on EU legislation. However, wine moved from GB to NI with an English label, will be permitted through the green lane.

Precision breeding – The consultation focuses on the approval process, which it is link to the novel food approval process. Retailers are detached from the approval process. This is what the brief response to the consultation by BRC will reflect. This is managed by FSA.

DEFRA is looking at how to position this on the market. Their current position is they will not require labelling or any information on pack. It will be down to each company whether they want to make the information available. The group had a presentation by a foreign salad leave producer who successfully highlighted the product being precision bred on the label. It is felt that this will be a brand issue before it is a retail issue. Retailers are likely to wait for the brands to lead. When it gets to a point when a decision on whether to label, needs to be made, it would be good to align the position.

Organics – The Soil Association has written to some members pushing for mandatory labelling of precision breeding. Members felt they should not get involved.

WRAP – 4 members have agreed to be involved in the work WRAP are doing on the review of labelling legislation. A 5th member is considering whether to get involved – it is an onerous ask. Most had not received the questions. The store visits have been postponed until February.

SHELLAC – Since the decisions by the vegetarian society to delist shellac from the list of ingredients permitted in vegetarian products, other glazing agents have appeared on the market. There are two main ones: Zien and Apeel.

The FSA has stated that these two substances are being used for their additive function – glazing or coating agents, and therefore are additives. Since they are not approved, they are not permitted for use.

Members explained some companies are declaring Zien as maize protein, claiming it is an ingredient.

Regarding APEEL, it is a mono- di- glyceride (E471), which is an approved additive for another use. The argument is it is not approved as a glazing agent.

A member mentioned a decision was taken in Europe in May 2019, before the UK left the EU, to allow this substance for use as a coating agent for a number of fruits. It was unclear why this decision does not apply in UK. The manufacture of this ingredient is applying for an extension of the fruits in which this additive can be used.

BRC will set up a meeting with FSA to discuss and report back to members.