

MINUTES	Ref: LLWG/24/019
Meeting date: 1 February 2024	
Group Meeting: Minutes Labelling & Legislation WG	
Location: Teams	

ATTENDEES

Lorraine Eve	Tesco
Ash Stretton	M&S
Sarah Wood	ALDI
Mathew Willis	Morrisons
Aaron Fawcett	Co-op
Jared Winder	WH Smith
Jean Marshall	Waitrose
Simon Maguire	Asda
Geraldine Roberts	Iceland
Jessica Martin	McDonalds
Abigail White	McDonalds
Olasemo Abisola	McDonalds
Joseph Piddington	Fortnum & Mason
Grace Sargent	Fortnum & Mason
Andrew Griffiths	Harvey Nichols
Marina Persoglio	Costa
Jennifer Nyamekye	IKEA
Rachel Vickers	Starbucks
Katie Hipwell	Starbucks
Alison Dobbs	Starbucks
Sandeep Topiwala	Dominos

Steven Carroll	TK Maxx
Gill McGee	Lakeland
Chloe Miller	Greggs
Karen McEwan	Greggs
Janice Owen	Greggs
Ann Burrell	Boots
John Counihan	Musgrave
Elisa Elschner	Lidl
Andrea Martinez-Inchausti	BRC

1. NOT FOR EU LABELLING

The draft Regulation introducing the provisions on 'Not for EU' labelling were agreed yesterday. It had been held by the DUP in Northern Ireland.

[The Windsor Framework \(Marking of Retail Goods\) Regulations 2024 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

A discussion was taken place in Westminster Parliament today at 11.00. After this, Government will be able to publish the consultation on how to implement those provisions. Publication is expected tomorrow.

It is clear that Government has not listened to industry concerns. It is important they listen to our concerns on the implementation of the provisions. Members felt that we have one opportunity to get it right, otherwise we will be locked into this decision. Government should put consumers first. Consumers do not respond positively to negative statements - 'Not for EU'. Members have stated receiving questions in Northern Ireland about these statements. A positive statement such as 'For UK only' would work better. Members wanted BRC to push for this change.

It was explained that since the phrase used in GB must match the one used on products moving from GB to NI through the green lane, and this element was part of the Windsor agreement, the Commission will need to be convinced of the change, and this is highly unlikely. They would not want to re-open any part of the agreement, especially since they are not happy with the way the provisions have been implemented in the last few months.

One big issue will be timings. The draft Regulation refers to October 2024 for compliance. We have extensively explained that this timeline is unachievable.

The consultation on the detail of the implementation will run for 8 weeks.

It was agreed we would invite DEFRA's implementation team to attend our next Labelling & Legislation group meeting on 7 March. BRC will also set up a meeting in a few weeks to go through the consultation.

2. FOLIC ACID FORTIFICATION

The Government recently announced next steps for this policy. The draft SI will be notified to WTO and the Commission. They do not envisage any challenges. After this, it will be laid. We are likely to have the final SI published around April. From this date, companies will have 2 years to achieve compliance.

BRC contacted DEFRA about pragmatism. Their response was concerning. They believe they are not the right body to support pragmatism of implementation. They also highlight concerns over consumer confusion.

Members felt that the only way forward would be for millers to add the fortificants towards the end of the transitional period and retailers to start making label changes from the start. Folic acid will be overdeclared, however this causes no harm to consumers; there is no harm or allergenicity issue.

It is important that the Government advises pregnant women to continue to take supplements and not to rely on this supplementation.

We will put it in the agenda for the PASG.

3. PREGNANCY ADVICE

A number of pregnant customers had queried what cheeses they could eat. This led to an internal conversation about whether labelling advice should be extended to other foods in the NHS list of foods to be avoided when expecting.

The group felt that this could open a can of worms. There is no evidence of microbiological infections in pregnant women. The foods which currently include a statement were identified on a risk bases.

No more work will be done on this issue by the group.

4. DUTCH PAL LABELLING

Holland has just passed on the use of Precautionary Allergen Statements. The group though this was interesting. We may want to invite them to a meeting in a years' time to understand how they are progressing with implementation and any learnings.

5. 16-WEEK EXEMPTION FOR EGGS

The consultation which is currently open only covers England and Scotland. The provisions are already applicable in Northern Ireland, since the European change is directly applicable. Wales is the one out. Egg marketing standards are a devolved matter.

A member had a meeting with DEFRA in which they emphasised to outline in very strong terms the commercial disadvantage of Wales not supporting this change.

Wales produces a lot of eggs and therefore if there was to be an outbreak and we went over the 16-week period, this will disrupt supply to the whole country. But the ones which in the long term will be more disadvantaged and marginalised will be egg suppliers in Wales.

If after the 16-week only Welsh eggs lose their free-range status, and become barn eggs, suppliers of those eggs will get less money for them.

We have to approach this as if Wales will not provide a derogation after the 16 weeks. We must emphasise this will be unmanageable.

6. PLANTS-BASED GUIDANCE

A new version of the TSI guidance has been produced. BRC is not allowed to share it. The document is the best version we have seen; however, it is still not ideal. The two main changes are a more extensive explanation of why each option covered is or is not permitted, and examples have been added.

We have been invited to provide comments to this version. Our response will be circulated to members. Our main point will be to query the lack of enforcement plan. A very large proportion of the market will not be compliant according to that text, but it is unfair to assess them against a document which they have not even seen. And while these products might technically not be legally labelled, they are not misleading, so is it in the public interest for enforcers to spend their time on this issue?

A member asked whether we should approach the First Tier Tribunal who would ultimately adjudicate if an issue was escalated. It was felt that the judge could provide an opinion on specific cases, but they are unlikely to comment on the overall approach.

The guidance will be discussed at the next PASG meeting on 9 April.

7. ZION / APEL

Devina explained that FSA was clear that Zion is an unauthorised additive. Some have argued that maize protein is an ingredient. It has been clarified that if the maize protein has undergone selective extraction, it is either an additive and it is unapproved, or an ingredient and it would be novel. Neither are approved and therefore are not permitted for use.

The group explain this product is extensively used by both retailers and brands and needed to understand what the expected action is, e.g. withdrawal or being allowed to sell products through.

It was agreed we will try to confirm there are no safety concerns associated with this product. We will also try to have an off the record conversation with FSA to understand what their likely answer would be on next steps.

8. AOB

- **IGD** – Their latest correspondence states they are progressing with the work on ECO labels by setting up two new groups. One will cover label design and the second one consumer communications. They seem to be progressing with this at a very fast pace compared with DEFRA's progress. It was agreed those who make it into those groups will provide feedback.
- **FOP EXEMPTIONS** – The group was informed of the piece of work on front of pack exemptions stated by the Nutrition WG. This group felt strongly that the work should not be progressed. FOP is voluntary and each business has had their own internal considerations to develop their own policy, which is unlikely to change as a result of such paper. The Nutrition WG will be informed that this work will not progress.
- **COOL/WELFARE** – The group was reminded of the recent shared information about a consultation to be published in February requesting views on method of production and country of origin labelling.
- **COOL DECLARATION** – the group briefly discussed the draft table of origin declaration options shared. This was a bit confusing because it was not shared in context. Most members will work to avoid being in scope of Regulation 2018/775. The only declaration which was unclear was UK&EU. Defra has previously argued that the UK could be seen as a geographical area with 4 countries, however legally the UK is a country, the Regulation does not allow to mix countries and geographical zones.
- **BREAKFAST DIRECTIVES** – It was agreed they will be put on the agenda for the next meeting.