

THE PACKAGING AND LABELLING OF FOOD PRODUCTS IN THE EUROPEAN REGULATORY REQUIREMENTS

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Abstract: *Starting from the principle of safety and consumer protection, especially of the European consumer on the single market where products from all Member States are presented, ensuring an equal competition regarding the market access for all products and imposing binding rules to all producers and distributors of food products as regards the correct and complete information about the content of the products, the manufacturing, shelf life, and place of origin, the European legislation on food labelling has evolved both in terms of complex and stringent regulations, as well as in terms of the type of legislation, the enactment through directives to the adoption of regulations for direct application, as the latest legislation regulatory document, the EU Regulation no.1169 / 2011.*

Key words: *label, mandatory, food products, ingredients, information.*

1. Introduction

An essential concept of the modern theory of marketing, also known by the name of the "4P", the marketing mix represents "*all the controllable marketing tactical tools that the company combines in order to produce the desired reaction on the target market*" (Kotler & Armstrong, 2008: 134-135). This set of instruments is also a set of variables controllable by the trader and combined in marketing strategies to influence consumer behaviour in order to ensure the maximum efficiency of the product and of the manufacturer on the outlet markets, regardless of the product's nature.

A proof that the marketing mix must be combined within the marketing strategies is that the same type of items, namely packaging and labelling of the product are found in the product policy, since the final presentation of the product involves rules on packaging and labelling of the products, particularly food products with a determined shelf life, and within the price policy, the final price of the product also includes the price of the package, respectively the recycling price of the packaging, but also in the promotion policy, while the packaging and the information on the label represent the main vectors of communication between the manufacturer / distributor and the consumer.

Each of the marketing mix elements can become a source of competitive advantage at a certain time for the product and / or the company, so in order to ensure a fair competition on the market and to ensure the consumer's protection, the legislators intervene by

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regulations in all four sub-mixes. Thus, the product sub-mix is composed of variables such as quality, variety, brand and product design, packaging, services related to the product, warranties and returns, each of them being the subject of legislation in the EU (Directive 2011/83/EU) and on a national level (Directive no.249/2015 or the Government Emergency Ordinance no.34 / 2014).

From the perspective of the sub-mix elements of pricing policies, through the legal norms adopted it is aimed to establish certain uniform rules at Community level for the operators who offer for sale goods on the single market regarding VAT (EC Directive 2006/112 as amended by Directive 2008/117/EC on combating tax evasion connected with intra-Community operations, Directive 2009/47/EC concerning the reduced rates of value added tax and Directive 2010/45/EU amending Directive 2006/112 / EC as regards the rules on invoicing) respectively, the granting and recording in accounts the rebates and price reductions (the 7th Council Directive 83/349/ CCE of 13 June 1983 on consolidated accounts). In the national legislation, the already mentioned Community rules have been implemented through the adoption of tax codes, Ordinance No.99 / 2000 on the marketing of products and the services on the market, namely the Ministry of Finance Order no.1802 / 2014 for the approval of accounting regulations regarding the annual individual and annual consolidated financial statements.

And from the perspective of the sub-mix elements of the promoting policies, regarding the category of food products, rules to harmonize the national legislation on the rules for labelling, presentation and advertising of foods have been established at Community level in order to eliminate the barriers that prevent the free movement of food products and the causes of unfair competition on the market, in order to protect the interests of the European consumers who are guaranteed the right to choose the products knowingly. In the category of Community rules at the beginning of the XXI century, we mention Directive 2000/13/ EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to labelling and presentation of food products, as well as the advertising of food products or the (EC) Commission Regulation No. 608/2004 of 31 March 2004 on the labelling of foods and food ingredients with added phytosterols, phytosterol esters, phytostanols and / or phytostanol esters, both documents currently being repealed by Regulation (EU) no. 1169/2011 of the European Parliament and of the Council of 25 October 2011 regarding the consumer's information concerning food products.

And national laws have been adopted to harmonize the national legal framework with the European legislation on consumer protection and food safety (Government Ordinance no.21/1992 on Consumer Protection and Law 363/2007 and Law no.150/2004 regarding the safety of food and feed) as well as administrative measures to ensure the domestic legal framework for the direct application of Community rules (Government Decision no. 723/2011 establishing the legal framework necessary for the implementation of Regulation (EC) No.1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on food products, GD no.106 / 2002 on food labelling, Public Health Ministry Order 1505/2006 regarding the abrogation of certain laws with a view to the direct application of community regulations and decisions, namely the Ministry of Agriculture, Food and Forestry Order no.417 / 2002 concerning specific rules for labelling organic food, the Public Health Ministry Order No. 1160/2008 approving the rules for the definition, description, presentation and labelling of the Romanian traditional drinks, etc.).

2. Packaging and Labelling of Food Products - Components of the Product Policy and Vector in the Consumer Communication Policy

Currently, the functional characteristics of a product expanded, combining into a single entity with intangible attributes (Florescu, 1992, p. 62) such as the body components (composition, form, instructions/ preparation, brand, price, combining all this information on the label of the product), the communications concerning the product (the producer's messages and requests to the consumer in order to position the product on the market) and the product image (the mental representations of a cognitive, affective and social nature of the product among buyers).

Since the label is glued on the packaging, and so together the two elements ensure the product image, they appear to be inseparable and are addressed from the perspective of marketing together, although in terms of normative regulations, the legislator addresses them separately, starting from their economic role, but also their different nature and composition in relation to the food product concerned and its physiological characteristics that might conflict chemically or thermally with it (i.e. if the label is mostly paper and has a default content, the packaging may be paper, plastic, glass, PVC, aluminium foil, respectively).

Packaging is defined as the operation, procedure or method which ensures by means of packaging and sealing methods, the temporary protection of the product during handling, transportation, storage and sale. This definition relates solely to the preservation and protection functions of food products, packaging protecting the product from the environmental factors that can degrade it. In time, the functions of the packaging in terms of marketing have evolved, so that presentation, packaging and labelling are currently important elements of product promotion and communication with the consumer. Also, in the current conditions of the food market where products are similar from the gastronomically point of view, the individualization of the product and brand on the market is also assured in many cases by the packaging used, and in case similar packaging is used by competing companies, the brand and the label will be guaranteed individualisation elements.

Taking as reference the package and the label, in most cases, buyers easily recognize the products they buy out of habit as the products whose characteristics they know and which suit their needs and those of their family, based on the characteristics of the packaging and label, and we can even speak of a buyer's reflex, considered and exploited by the manufacturer to ensure the product placement on the market.

Also by means of packaging and label, some manufacturers try to maintain the consumers' interest on that product by changing the packaging (changing the taste or the nutritional qualities of the dairy products, for example, is more difficult to achieve in the current era of the food industry) either visually (change the colour palette of the background of the pack, or change the graphics on the packaging) or in terms of form and handling the package (changing the size of packaging, e.g. a 1 litre carton of milk is replaced by a plastic bottle of 1, 8 litres, keeping the background colour of the packaging).

Even if the label seems to be only a written, printed, lithographed or illustrated material containing product information and which accompanies the product when being sold, the purpose of the label is presently that of informing the consumer, an aspect underlined by the Romanian legislature in Article 3 of GD. 106/2002 *the purpose of labelling is to give*

the consumers the necessary, sufficient, verifiable and easily comparable information, so as to enable them to choose a product which meets their requirements in terms of their needs and financial possibilities, as well as to know the possible risks to which they may be subjected. Likewise, speaking of consumer information and consumer behaviour regarding food products, Article 3 of the EU Regulation no.1169 / 2011 takes into account the information provided through the packaging and label to be used by the consumer in order to protect his/her interests regarding food security and their own health: *providing information on food products aims at ensuring a high level of protection of health and the consumer interests, providing the final consumers with a basis for making an informed choice and to make safe use of food products, taking into account especially health, economic, environmental, social and ethical considerations.*

3. The Importance of Food Packaging and Labelling

If at first, the package was considered a simple packet containing the product, ensuring, in particular as regards to food products, a minimum of hygiene required by the rules of public health and food security, currently packaging has become a body of the product and within the marketing policy, it tends to become, along with the label, the main bearer of messages addressed to the consumer, ensuring the direct communication with the consumer (Diaconescu, 2005, p. 62).

And if packaging as an element of product submix and its functions (including the function of information and consumer protection, respectively the function of product protection) have boosted an interest of the marketing papers for quite a while in terms of safety offered by the consumption of packaged food (Diaconescu, 2005, p. 62-72; Ţimiraş, 2012, p. 47-51) and special regulations have been adopted at European level on food packaging materials, such as Regulation 1935/2004 / EC on the materials and objects intended to come into contact with food and repealing Directives 80/590/ EEC and 89/109/ EEC since the early '70s, labelling also standing out as an important instrument in informing and protecting the consumers, but also in promoting the products. From the perspective of the new role acquired, food labelling becomes for the first time the object of normative regulations at European level by adopting Directive 79/112 / EEC or Directive 90/496/ EEC on nutrition labelling, both laws now being repealed by the entry into force, on 13th December 2014, of Regulation (EU) no. 1169/2011 on the consumer's information on food.

Although the physiological need for food of the individual is ancestral, the current consumer is more sophisticated and complex in needs, combining the physiological needs with the social ones (e.g. the need to ensure a natural unpolluted environment), so that the food products must fully satisfy the consumer by becoming sophisticated and complex, both in composition and processes of manufacturing, and through presentation, packaging and labelling.

To understand that currently the packaging and labelling of food products, initially perceived as elements of protecting the products and presentation of their composition, have become elements conferring this type of products safety for consumption and help to strengthen the consumer's confidence in the product or brand used, we convince ourselves from the results of an independent research conducted worldwide in the period 2012-2014, known as TÜV SÜD Gauge study, research assessing the consumers' attitudes and experiences of consumers in cities in the US, European Union, China, India and Japan,

regarding the safety practices of food products. This study shows that for current consumers, the interest concerning food safety is in a considerably upward trend, given that in 2007 only 48% of consumers were concerned about food safety in forming the decision of consumption, in 2014, the concern is found in 67 % of the consumers, while the prevision for 2017 shows that food security will be very important for 71% of consumers (TUV SUD Safety Gauge Study, 2015: 4).

Analyzing the evaluation criteria of food products in terms of safety compared to the buying decision, the criterion regarding food safety is on the third place with 34%, after the price criterion (66%) and the freshness of food products (56%), categorically advancing other criteria such as brand (13%) and country of origin (5%), or if the food product has been produced using sustainable methods (6%).

4. Mandatory Information Present on the Labels of Food Products According to the Legal Norms in Effect

Having as a main topic the consumer, aiming to ensure the free movement in the EU internal market of safe and healthy food products, wanting to guarantee the consumers a high level of health protection in order to increase the consumer's confidence in the food products, the current EU legislation, through EU Regulation no.1169/2011 provides the appropriate information of the consumers by labelling the products for them to make informed choices concerning the food products they are buying and eating regularly.

From the consumer's perspective, the issue of protecting the food product and the possibility of its preservation for consumption over a longer period while maintaining the physical and nutritional qualities of the products, transposed gradually in the trust that consumers have in that product, a proper packaging of the food product and a label with the mandatory information also contributing to ensure the correct, comprehensive and fair information of the consumers.

If over time, depending on the legislation in effect, certain information contained in the product label were left at the discretion of the national legislature or the manufacturer, currently, according to Article 9 of EU Regulation no.1169 / 2011 in relation to Article 5 of GD no.106 / 2002, the following information is required to be included on the label:

1. Name of the food, information allowing the identification of the product;
2. The list of ingredients, any substance or product, including being defined as ingredient flavourings, food additives and food enzymes, as well as any constituent of a compound ingredient, used in the manufacture or preparation of a food and still present in the end product, even if in an altered form; the residues shall not be considered ingredients, while food additives may be considered ingredients if used as processing aids or if they were contained in one or other ingredients of the product provided it is not subjected to technological functions in the final product;
3. The quantity of certain ingredients or categories of ingredients;
4. The net quantity of the food product;
5. Date of minimum durability (using the phrase *to consume preferably before ...*) or best before end in the case of the very perishable food products from the microbiological point of view (using the expression *best before end ...*);
6. Special storage conditions and / or conditions of use;
7. Name or brand name and address of the food business operator that has the obligation to inform the consumers, who is either the operator established in the EU under whose

name a food product is marketed or the importer established in the EU if the operator does not reside in a EU Member State;

8. Country of origin or place of provenance where the lack of this information might mislead the consumer as to the true country of origin or place of provenance of the food product, in particular if the information accompanying the food product or the label as a whole would imply otherwise, that the food has a different country of origin or place of provenance, as well as for types of meat falling within the combined Nomenclature ("CN") listed in Annex XI of the EU Regulation no.1169 / 2011;
9. Instructions for use, in case their omission thereof would impede the proper use of the food product;
10. Alcohol concentration for the alcoholic beverages containing more than 1.2% alcohol by volume;
11. The nutrition declaration (a prorogued mention concerning the entry into force of its obligation to 13 December 2016 and for certain food products, such as herbs and spices, flavourings and herbal teas, the nutrition declaration is not required).

For certain types of food, such as those containing sweeteners, ammonium salt or high caffeine content, additional mandatory information on these compounds must be provided.

The mandatory food information should be presented in a uniform, legible manner so as not to mislead the public, particularly by suggesting that the product possesses characteristics or special effects that it does not have. The information must be accurate, clear and easy to understand for the consumer through a common language.

5. The Evolution of European Regulations on Food Labelling

Since December 1978 by the EEC Directive No 79/112 on labelling, presentation and advertising of food products, the labelling term was defined as *the totality of claims, indications, marketing or brand names, pictures or symbols referring to a food product and placed on any packaging, poster, label, ring or collar accompanying or related to it*, a definition also taken with slight differences in terminology, from article 2, paragraph 2 of the EU Regulation no.1169/2011.

Thus, since the '70s, the label has been defined by broadly including the concept and notions of advertising and the presentation materials of the products, giving the label functions of informing and communicating with the consumer.

EEC Directive No 79/112 was amended and completed in time by several regulations, among which the EEC Directive no.85/7/1994, EEC Directive no.86/97, EEC Directive no.89/395, Directive no.91/72/EC or Directive n. 93/102/1993 (Diaconescu, 2005, p. 161).

By adopting these directives, the Member States had to adopt regulatory documents in the national legislation that would provide the national legal framework for labelling and advertising food products which would not mislead the consumer or create the conditions of unfair competition by awarding, according to the label, properties of prevention, treatment or cure of a disease.

The legislation on food labelling was made in the twentieth century attached to the EEC Directive No 79/112 by the Codex general rules for the labelling of pre-packaged food products - Codex STAN 1-1985 (Rev. 1-1991) and O.I.M.L. Recommendations -79/1994:

"Information on the labels of pre-packaged products" developed by the International Organization of Legal Metrology (O.I.M.L. / TC6 / No.5 - December 1994).

Listing and defining the mandatory mentions on food labels by the regulations at European level so as not to mislead the purchaser on the characteristics, properties or effects of consuming the food product, respectively not to attribute properties of healing, treatment or prevention of a disease to a product, we find detailed before Regulation nr.1169/2011, the text of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to labelling and presentation of foodstuffs, and advertising of foodstuffs, which repealed enactment EEC Directive No 79/112. Among the mandatory set to be introduced in the national legislations by Directive 2000/13/EC we mention the name of the merchandise, the list and quantity of ingredients in descending order of their share, the net quantity of the food product (it provides clear information on the quantity of product for the products packaged in bottles or matte packaging that do not allow seeing the product or when a product is presented in a covering liquid - for example, the tin-cans), the minimal durability date, special conditions of conservation or use, the name or brand name and address of the manufacturer or packager, the place of origin or provenance.

Directive 2000/13/EC came into force without a transposition period from 26.05.2000, has also been amended while Directive 2001/101 / EC, Directive 2002/67 / EC, Directive 2003/89/EC, Directive 2006/107/EC, Directive 2006/142/EC and through the provisions of EC Regulation no.1332/2008 which partially amends Article 6, respectively the provisions of EC Regulation no.596/2009 which partially amends Article 4, paragraph 3, articles 6-8, art.11-12, article 16 and art.20-21.

And whether the provisions concerning food products to be delivered to the ultimate consumer or restaurants, hospitals, canteens and other similar collectivities adopted largely by directives were to be implemented by Member States by adopting legislation transposing the recommendations of the European court, it was found in the experience of 30 years of regulation through the adoption of directives that with the increasing importance of label as a tool for communicating with the consumers, the legislative instrument to ensure a consistent mandatory framework for food labelling is the regulation, for which the EU Regulation no.1169/2011 is adopted in 2011 regarding informing the consumers about food products that include mandatory enforcing guidelines in all Member States concerning the labelling of products together with rules imposed by Regulation no.1924/2006 on nutrition and health related to food products and the EC Regulation no.1925/2006 on the addition of vitamins and minerals and other substances in food.

In the context of the label standing out as a tool for promoting and communicating with the consumer and a correct and complex information, in 1990 the concept of *nutritional labelling* is introduced at EU level at the request of the Codex Alimentarius Commission, the EU Council adopting Directive no.90/496 in 1990 that recognizes the right of consumers to know not only the ingredients contained in the food purchased but also their nutritional profile, the term nutrients defined in the legislation by the regulatory document referring to proteins, carbohydrates, fats, dietary fibres, vitamins and minerals. *The nutritional labelling* was not required unless there was a nutritional message on the label or in the advertising related to the product in the regulation of the EC Directive 90/496, but although extended for implementation on 13 December 2016, the current regulation regarding the nutritional labelling is required by the EU Regulation no.1169 / 2011 as a

unit applicable to the EU Member States (the Regulation also repealed the EC Directive 90/496).

And as we were referring to a current more sophisticated consumer, combining the physiological needs with the social aspects of environmental protection, introducing the organic food label was desired since 1991, as a complement to the national labelling systems. The European Ecolabel is a voluntary labelling system that enables consumers to recognize the high quality products whose manufacturing process largely respects the environment, without the use of synthetic chemicals.

By Regulation (EC) no. 66/2010 of the European Parliament and of the Council of 25 November 2009 regarding the EU Ecolabel, the criteria for granting the Ecolabel are now established on the basis of the scientific information regarding the entire life cycle of the product, ranging from the development to their elimination and the environmental impact of their use.

6. Conclusions

Food labelling has been marked in recent decades, also imposed by the alteration of its functions in terms of marketing, by a special evolution as regards the methods of implementation and the graphic quality of the label, including the aspect of safety characteristics which confirm that we are dealing with an original and not a counterfeit product, but also a permanent enrichment of its information content, as the consumers also acknowledge this. Thus, *the nutritional label* and *the Ecolabel* have become indispensable components of the modern label, elements that producing and distributing companies of food use as a valuable informational and promotional instrument in the competitive battle, but which have to be used with the observance of the legal provisions on the mandatory content and ensuring a fair competition among companies.

Justified by the principles regulating the mandatory information regarding the food products, the legislation adopted at EU level by the EU Regulation no.1169/2011 is currently the most accurate and comprehensive food labelling regulation because the current rules provide the consumer with clearer information regarding certain nutritional characteristics of the processed foods - energy, fat, saturated fat, carbohydrates, sugars, protein and salt, so that an informed and interested consumer will be able to compare the food products (including the possibility of including information on certain nutrients selected on the front part of the packaging) and will be able to choose the products according to their needs in such a way as to ensure a healthy diet for him/her and their family.

However, the new regulation at European level, based on the same principle of consumer safety and complete and correct information, related to the segment of consumers with food allergies and / or certain food diets, strengthen the existing information on certain substances causing allergic reactions or intolerances.

And if with reference to ensuring the transition to the new mandatory regulations imposed on the Member States by EU Regulation no.1169/2011 on the mandatory minimum content of the food label, the legislature has provided for a period of three years until 13 December 2014, the regulations on nutrition labelling will be mandatory only starting with 13th December 2016, date by which the competent national authorities in the Member States must ensure the domestic legal framework and the instruments for disseminating this type of new information.

This longer period for the implementation of the new labelling rules was granted by Regulation no.1169/2011 taking into account, on the one hand, to ensure sufficient time to inform the consumers about the new rules, on the other hand to ensure a sufficient period for the implementation of the new labels, the modification of the already printed ones and applied on the products, generating significant expenses for the business operators, for which the possibility to market the stockpiles with old labels over the deadlines has been given, until exhausting the stocks of products (namely stocks of products packaged and labelled according to the old rules, rather than old stocks of labels).

The current system of food labelling enacted by the EU Regulation no.1169/2011, with direct and mandatory application in the national legal order of the EU Member States, provides a number of newly introduced specific requirements such as mandatory information on the allergens contained in the non-pre-packed food, including in the case of restaurants and cafes; mandatory information on the origin of fresh meat from pigs, sheep, goats and poultry; specific information about the origin of vegetable oils and refined fats; indicating the replacement ingredient for the "imitation" food products; a clear indication of "reconstituted meat" or "reconstituted fish" and to clearly indicate the thawed products.

Thus, the obligations on food labelling rest on the economic operators throughout the food chain and all the types of food intended for final consumption, the responsibility for providing the necessary, complete and accurate information on the labels falling on the producer in whose name the product is marketed and if the registered office of the business operator that produces the respective brand is outside the EU, the legal responsibilities regarding the content of the label lie with the importer who brings the product concerned on the single market.

The need for a uniform regulation of nutrition labelling at Community level is a matter of public interest, aimed at protecting the consumers from a biological, economical and social point of view. It also constitutes a barrier to the marketing of inadequate food products from a qualitative point of view in relation to the needs of a healthy diet, the pirated products and those forged, with beneficial effects not only in the sphere of consumption, but also in that of production, for which reason a transition from the optional nutritional label to regulating it as mandatory was made starting with December 13, 2016.

From the perspective of the national legislation on food labelling, as of December 14, 2014, the provisions of the EU Regulation no.1169/2011 are applicable, while the Government Decision No. 106/2002 is still in force, the enforcement of its provisions being subordinated to the Community rules and repealed by the latter.

And because the EU Regulation no.1169/2011 leaves the Member States to set the national authorities qualified to resolve any complaints regarding the violation of the rules on food labelling, in the absence of other national provisions, according to GD no.700/2012 on the organization and functioning of the National Authority for Consumer Protection, as of July 18, 2012 this institution is competent for endorsing the draft legislation on consumer protection with respect to the manufacture, packaging, labelling, preservation, storage, transport, import, marketing of products, including food products, respectively performing market surveillance activities for the products destined to consumers and monitoring the enforcement of the legal provisions on the consumer protection relating to food safety, including observing the rules on packaging and labelling of these products.

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