

Specific elements of communication on agri-food products resulting from EU legislation

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Abstract

In the European Union a significant number of regulations aimed at agricultural and food sector thus creating the legal framework regarding the mode of production, pricing, distribution and communication in relation to agri-food products. Specificity agri-food marketing communication at EU level resulting in most of the measures taken with regard to ensuring consumer protection, food safety and security, some of them, in force in early 2012, referring to the labeling, presentation and advertising of agri-food products, sponsorship and distinctive signs of quality are shown in this paper.

Keywords

communication, labeling, presentation of agri-food products, advertising, sponsorship, quality marks

JEL Codes: K32, L15, M31

Specificity of the agri-food product communication at EU level results in most of the measures taken with regard to ensuring consumer protection, food safety and security.

This paper presents some of the elements of primary importance resulting from EU legislation, in force in early 2012, referring to communication of agri-food products without claiming an exhaustive presentation of issues addressed.

Labeling of agri-food products

According to EU regulations¹ are considered *information about food products* all information provided to consumers through labeling, accompanying documents or other means, including modern technology tools or verbal communication with regard to food product. **Labeling** “means any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a food and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such food”.

The label is designed to provide consumers information necessary, sufficient, verifiable, understandable and comparable, so that they can make informed choices. The information shall be located so as to be easily visible and legible. Are prohibited any tactics that can mislead the consumer about: identity, property, nature, quantity, mode of production, origin or source of products, date of minimum durability, attributions or properties who are assigned for prevention, treatment or cure of a human illness and which they do not possess them.

Exceptions to the prohibition on awarding therapeutic properties are natural mineral waters and products with particular nutritional purpose according with the legislation in force. It

¹ Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 and repealing Directives: 87/250/EEC, 90/496/EEC, 1999/10/EC, 2000/13/EC, 2002/67/EC, 2008/5/EC and Regulation (EC) No 608/2004.

also prohibits the presentation of the product as holding certain features / special ingredients, when in fact they are specific to all similar products.

The responsibility in respect of consumer information on agri-food products has the EU operator under whose name or business name the product is marketed or the importer for the products from extra-EU.

According to EU regulations, is mandatory that informational message who appears on the label to contain:

- *the name of the food*, who must to be its legal name. Failing that, will use a current or descriptive name of the product. Also, it's allowed to use the name under which the food is sold and manufactured in the production country. In the latter case, if the information about the product doesn't allows the consumer know the real nature of the food and to distinguish from foods which might confuse, the name must be accompanied by other descriptive information of the product to avoid possible confusion. Also, the name under which the foodstuff is sold shall include or be accompanied by information on its physical state or specific treatment that has undergone (freezing, refreezing, smoked etc.), if the omission of such information could create consumer confusion. It's mandatory to mention any ionizing treatments;
- *the list of ingredients* ('ingredient' means any substance or product, including flavorings, food additives and enzymes used in the manufacture or preparation of a foodstuff and who is found in the finished product), preceded by "ingredients" in descending order of their share in the product. It will be specified the amount of the main ingredients. In the additives case will be specified the category they belong to (color, preservative, antioxidant, emulsifier, stabilizer, gelling agent, firming agent etc.), followed by specific name or by case E number. Will be also specified the ingredients that can cause allergies. For following products not be required the list of ingredients: fruit and vegetables, carbonated water if is indicated carbonated character, fermentation vinegars derived exclusively from a single basic product without other ingredients, cheese, butter, fermented milk and cream made exclusively of dairy products, products who contain a single ingredient if their name is identical with the name of ingredient or allow clearly their identification;
- *the net quantity*;
- *the date of minimum durability or the 'use by' date*. It's not mandatory for fruit and vegetables (which have not undergone any processing operation), wines, liqueur wines, sparkling, flavored and other similar products, beverages with a minimum of 10% alcohol, bakery and pastry normally consumed within 24 hours, vinegar, salt, sugar in solid form, confectionery products consisting almost entirely in sugars flavored and / or colored, chewing gum and similar products;
- *any special storage conditions and/or conditions of use*;
- *the name or business name and address of the manufacturer, packer or distributor*. For imported products are signed the name and address of the EU importer;
- *the place of origin of the product* (if the absence of this information may mislead consumers about the origin or source product and for certain categories of meat specified in legislation in force²);
- *instructions for use*, where their absence could lead to improper use of foods;
- *alcohol content*, if it is greater than 1.2% by volume;
- *a nutrition declaration (nutrition label)*. This must include the energy value and the amounts of fat, saturates, carbohydrates, sugars, protein and salt. If case, when sodium is naturally present in the product, shall state that the presence of salt is due to its. Nutrition declaration may be completed by indicating the amount of: monounsaturated fatty acids, polyunsaturated fatty acids, polyols, starch, fiber, vitamins and minerals

² In The Combined Nomenclature who is the Tariff and Statistical Nomenclature of the Customs Union

reference for current consumption in certain significant quantities in accordance with applicable laws.

Regarding **labeling of organic products**, according to EU regulations³, the words "ecological", "organic" or "biological" and their derivatives or diminutives (example: "bio" and "eco") may be used in any Community language of the EU to highlight an organic product. Will be specified the appropriate code of the control authority for compliance with obligations of operators in terms of organic production and labeling of organic products (each control authority or control body that performs as required by law, tasks related to organic production and labeling of organic products, receives from Member States a code number). Also, on the packaging will appear the EU organic farming logo and an indication on the place where grown the agricultural raw materials (respectively, inside or outside the EU, or where appropriate, both inside and outside the EU). For products imported from countries outside the European community, the use the EU logo and indication previous mention are not mandatory. Indications referring to the organic production method may appear on the labeling, advertising material or commercial documents.



Figure no. 1. The EU organic farming logo⁴

Source: http://ec.europa.eu/agriculture/organic/eu-policy/logo_en

Concerning the **presentation of food supplements⁵**, these are marketed as "food supplements".

The label shall contain the following information

- categories / nature of nutrients or substances of product and quantities thereof;
- the recommended daily intake of product and a warning about exceeding this
- a warning about that dietary supplements do not replace a varied diet
- a statement to the effect that food supplements should not be used as a substitute for a varied diet;
- a warning for not to leave the product at hand to small children

It is forbidden to assign to food supplements the properties to treat or cure certain diseases.

Health claims can be shown on the label of food products (including food supplements) on the basis of scientific evaluation carried out by the European Food Safety Authority.⁶

EU regulations⁷ who aimed at agri-food products **containing genetically modified organisms** (GMOs) states that they will be labeled with the words: "This product contains

³ Council Regulation (EC) No 834/2007 on organic production and labelling of organic products.

⁴ Commission Regulation (EU) No 271/2010 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007, as regards the organic production logo of the European Union

⁵ Directive 2002/46/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to food supplements, as amended

⁶ European Regulation (EC) NO 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods.

⁷ Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms, as amended.

genetically modified organisms" or as appropriate, will be specified the name of GMO / GMOs.

Information on prices of agri-food products

Concerning **indication of the prices**, EU legislation⁸ refers to the requirement to display the selling price and the unit price (per kg., liter, etc.) of agri-food products, thereby allowing consumers to achieve comparisons and making decisions on informed basis. If the two prices are identical will be displayed selling price. Also, for products sold in bulk will only display the unit price. Price must be easily identified and read.

Another EU regulation⁹ specifies that is significant for decision making purchasing the information about product price inclusive all taxes, or where it can not be calculated in advance will specify how its calculation, respectively, all additional costs if appropriate. It is specified also, where appropriate, any additional costs that may be payable by consumer.

Aspects of unfair business-to-consumer commercial practices

A number of Community regulations¹⁰ applicable to all categories of products, including agri-food, refer to **unfair business-to-consumer commercial practices** which are banned in the EU. Business-to-consumer commercial practices means "any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers".

Are considered unfair trade practices, those that contravene the requirements of professional diligence and may distort the economic behavior of consumers in relation to a product. Unfair practices are especially *misleading* and *aggressive* practices.

Are considered **misleading commercial practices**, ones who provide consumers false information, respectively, which may lead consumers in error, even if the information is correct about some of issues, among which:

- the existence or nature of the product;
- the main characteristics of the product, such as: availability, benefits, risks, composition, complaint handling, method and date of manufacture, delivery, quantity, specification, geographical or commercial origin or the results to be expected from the use or the results of various tests performed on product;
- price, how to calculate it or any of its advantages;
- the nature, attributes and rights of the trader or his agent;
- the consumer's rights, including the right to replacement or reimbursement of the product.

Are also considered misleading:

- *comparative advertising* which creates confusion with any products, trade marks, trade names or other distinguishing marks of a competitor;
- *misleading omissions*, or not provide or present in a form difficult or impossible to understand the essential information for decision making purchasing.

both practices can lead consumers to make a wrong decision.

Aggressive commercial practices are those using harassment, coercion by any means can affect the consumer buying behavior.

⁸ Directive 98/6/EC of the European Parliament and of the Council on consumer protection in the indication of the prices of products offered to consumers.

⁹ Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market and amending Directives 84/450/EEC, 97/7/EC, 98/27/EC and 2002/65/EC and Regulation No 2006/2004.

¹⁰ Directive 2005/29/EC.

Comparative advertising is accepted under the following conditions:

- it is not misleading;
- it compares products that addresses the same needs;
- it compares, objectively, one or more material, relevant, verifiable and representative (including the price);
- it does not discredit or denigrate the trade marks, trade names, other distinguishing marks, goods, services, activities or circumstances of competitors;
- it compares products with the same designation of origin (for products with designation of origin);
- it doesn't take advantage incorrectly of the reputation of the trade mark, trade name or other distinguishing marks of a competitor;
- it doesn't present products as imitations or replicas of others who have protected trade mark or trade names;
- it doesn't create confusion among traders, advertisers and competitors, respectively, between the trade marks, trade names or other distinguishing marks, goods or services competing.

Aspects regarding the audiovisual commercial communication

According to EU regulations¹¹ "**audiovisual commercial communication** means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a program in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, *television advertising, sponsorship, teleshopping and product placement*". "...*product placement* means any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a program, in return for payment or for similar consideration".

Regarding audiovisual commercial communication (including for agri-food products), it meets the EU following conditions¹²:

- the commercial content of communication is recognizable (it's not masked);
- it is not subliminal, respectively does not use too weak stimuli to be perceived consciously, but who can influence economic behavior;
- it doesn't prejudice respect for human dignity;
- it doesn't include or promote discrimination based on race, sex, ethnic or national identity, religion, creed, disability, sexual orientation;
- it doesn't encourage behavior that may affect health and safety;
- it doesn't encourage behavior that may affect the environment;
- it doesn't promote tobacco products;
- the promotion of alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages;
- it doesn't contain elements that cause physical, moral, intellectual or mental detriment to minor; it doesn't encourage them, directly, to buy a product or to persuade their parents or others to purchase the product; it doesn't exploit the trust of minors in parents, teachers or other persons; or, unreasonably, shows minors who are in dangerous situations.

¹¹ Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

¹² Directive 2010/13/EU.

TV advertising and teleshopping for alcoholic beverages must meet the requirements ¹³:

- it doesn't address especially children and doesn't present them consuming alcoholic beverages;
- it doesn't associate the alcohol consumption with improved physical performance or with easier driving;
- it doesn't associate the alcohol consumption with the favoring of the social or sexual success;
- it doesn't present the alcoholic beverages as has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- it doesn't create a negative image of moderate consumption or lack of consumption;
- it doesn't show high alcoholic content as being a positive feature of beverages.

Regarding **advertising of tobacco products**, it is prohibited on radio and television. In press can only be achieved in publications intended exclusively for professionals in the tobacco trade, or in publications that are not addressed to the EU market. Regarding **sponsorship of tobacco products**, the mass-media audiovisual services or programs and the radio broadcast can not be sponsored by market agents who are engaged in the production or sale of tobacco products. Sponsorship of events held in several Member States is prohibited. ¹⁴.

Distinctive signs of quality agri-food products

Although the results of the quality policy, **distinctive signs of quality** used in the European Union have a undeniable promotional role. Inclusion of these signs on the packaging of agri-food products is a guarantee of product quality and prestige of manufacturer. These distinctive signs are: Protected Geographical Indication (PGI), Protected Designation of Origin (PDO) ¹⁵, Certificate of Specific Character most frequently designated by „Traditional Specialty Guaranteed” (TSG) ¹⁶, organic farming ¹⁷.

Geographical indication “means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff originating in that region, specific place or country, and which possesses a specific quality, reputation or other characteristics attributable to that geographical origin and the production and/or processing and/or preparation of which take place in the defined geographical area”¹⁸.

Designation of origin “means the name of a region, a specific place or, in exceptional cases, a country used to describe an agricultural product or a foodstuff originating in that region, specific place or country, and the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined geographical area”¹⁹.

¹³ Directive 2010/13/EU.

¹⁴ Directive 2003/33/EC of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products and Directive 2010/13/EU.

¹⁵ PGI and PDO are regulated by Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, completed by Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

¹⁶ Certificates of specific character, respectively, Traditional Specialties Guaranteed are regulated by Council Regulation (EEC) No 2082/92 on certificates of specific character for agricultural products and foodstuffs, completed by Council Regulation (EC) No 509/2006 on agricultural products and foodstuffs as traditional specialties guaranteed.

¹⁷ Council Regulation (EC) No 834/2007

¹⁸ Regulation (EEC) No 2081/92.

¹⁹ Regulation (EEC) No 2081/92.

Certificates of specific character signify recognizing at European level of an element or set of elements through which an agricultural product or a food differs clearly from other similar products or goods. To obtain the certificate of specificity, respectively, the product registration in the register of *Traditional Specialties Guaranteed* recognized at the EU level „an agricultural product or foodstuff shall either be produced using traditional raw materials or be characterized by a traditional composition or a mode of production and/or processing reflecting a traditional type of production and/or processing”²⁰.

PGI, PDO and TSG can be obtained by companies of inside and outside EU, according the legislation in force.

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²⁰ Council Regulation (EC) No 509/2006.