

Better Regulation in practice: The Revision of Regulation 1169/2011 on Food Information to Consumers

Regulation (EU) 1169/2011, on the **provision of food information to consumers (FIC)**, plays a critical role in ensuring that European citizens are informed about what they consume. The Regulation was adopted in 2011, enforced in 2014, and is fully applicable since 2015. The Regulation is primarily concerned with transparency in food labelling. It aims to guarantee that consumers have access to **accurate, clear, and understandable information** regarding the content and origin of the food and beverages they purchase (EPHA, 2023). In the context of the EU's **Farm to Fork Strategy**, and the wider Green Deal, the Commission launched a revision of Regulation 1169/2011 in December 2020. The Farm to Fork Strategy proposes a comprehensive reform of the food system, aiming to make it greener and more sustainable. One of its core objectives is to empower consumers to choose healthier and more sustainable diets. Following the Better Regulation guidance, the Commission has undertaken an **inception impact assessment** (outlining the process for the revision), a **stakeholder consultation, an impact assessment, and the commissioning of various external studies** (EPHA, 2023, European Commission, 2024).

The revision focuses on:

1. **Harmonised Front-of-Pack Nutritional Labelling.** This entails a mandatory harmonised labelling on the front of packaging to better inform consumers at a glance about the nutritional content of food products. Current initiatives, like the Nutri-Score, have proven useful in some Member States, but their adoption across the EU has been fragmented, showing the need for a common, EU-wide standard. Elements such as portion sizes and reference intakes, as well as design and symbols, need harmonisation and/or revision.
2. **Extended Mandatory Origin Labelling,** which extends origin labelling requirements to cover a broader range of products.
3. **Revised Rules on Date Marking,** revisiting the current rules around "use by" and "best before" dates to reduce food waste while maintaining food safety (EPHA, 2023).

The revision process has seen various **challenges and delays**, some technical and some political. The fragmentation of labelling practices within the EU presents a technical challenge. Geographical indications, protecting products from specific regions, have added complexity, since harmonising the nutrition labels without undermining geographical indications is a challenge. Politically, the Nutri-Score model, favoured by some stakeholders, has prompted intense debate, slowing down the decision-making process (EPHA, 2023). The system has faced opposition and lobbying campaigns from some Member States and industry actors, who argue that traditional products are disadvantaged by the process (BEUC, 2023). The European Consumer Organisation (BEUC) identified opaque lobbying practices against the Nutri-Score, and launched a complaint against two organisations (No-Nutriscore Alliance and Must&Partners) for breaching the EU Code of Conduct on

transparency (BEUC 2022, 2023, 2024b). BEUC argued that authorised representatives (Must&Partners) accessed EU decision makers to voice the concerns of an organisation they were representing secretly (No-Nutriscore Alliance), while the Commission was drafting its position on the issue.

An important additional element of the FIC revision is the **labelling of alcohol products**, which are **currently exempt** from many labelling requirements, including nutritional value, ingredients, and health warning labelling. While public health organisations are advocating in favour of such labelling, there has been strong resistance from industry actors. BEUC made an access-to-documents request in 2023, revealing the alcohol industry's intense lobbying from the moment the measure was announced in the Europe's Beating Cancer Plan, noting a high number of emails and meeting requests. Industry actors have campaigned to keep the special self-regulatory measures for alcohol, asking for flexibility and digital labels. However, providing information online limits access to information for consumers, especially as, most often, the list of ingredients is not provided. Finally, the access-to-documents request also revealed the **strong imbalance** regarding meetings on the issue between the Commission (specifically, the directorates responsible for agriculture and health) and the industry (22), and with civil society (none), between 2020 and 2023 (BEUC, 2024a).

The revision process is **currently blocked**. While consultations have been conducted, stakeholders have expressed concerns over the lack of transparency, particularly regarding access to draft impact assessments, and the tracking of meetings with Commission directorates, as the titles and subjects of these meetings are not always disclosed. In that regard, the European Ombudsman inquired about the Commission's refusal to give public access to documents concerning the impact assessment, and concluded a **case of maladministration** (European Ombudsman, 2024).

Whilst the delays are also political, the case of the FIC Regulation and its revision is an example of the potential of Better Regulation to **hamper the legislative process**, either incidentally, or in interaction with the **commercial determinants of health**. Contentious elements trigger heavy lobbying from industry actors, who use consultation exercises to advance their arguments, pursue multiple meetings with relevant directorates, and seek to influence the development of the impact assessment. Whilst civil society actors might, in theory, pursue similar strategies, in practice they have fewer resources at their disposal. The FIC case also illustrates the potential risk of revising legislation, and opening it up to renewed lobbying and amendment, a process which Better Regulation systematises, and the new Commission has proposed to accelerate under its 'stress testing' of the EU acquis.

Sources:

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- BEUC (2023). Food Label Ambush: How intense industry lobbying halted EU plans. Available at: <https://www.beuc.eu/blog/food-label-ambush-how-intense-industry-lobbying-halted-eu-plans/>
- BEUC (2024a). Lobbying Hangover: How intense alcohol industry pressure put Commission labelling plans on the rocks. Available at: <https://www.beuc.eu/blog/lobbying-hangover-how-intense-alcohol-industry-pressure-put-commission-labelling-plans-on-the-rocks/>
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- EPHA (2023). The revision of the Food Information to Consumers Regulation | Workshop Report. Available at: <https://epha.org/the-revision-of-the-food-information-to-consumers-regulation-workshop-report/>
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Further readings:

- Better Regulation for Better Health project (2024). Between art and science: Policy-making for health in the EU. Available at: <https://epha.org/between-art-and-science-policy-making-for-health-in-the-eu/>