

develop a proportionate legal framework by providing all the consumers with proportional information while adopting a holistic approach.

Due to the size of that proposal for a Regulation and the considerable amount of points debated, a selection of main items is proposed below:

Legibility

The committee recommended replacing the Commission's proposed requirement that all information be given in a minimum font size of 3 mm with a stipulation that information be given in such a way as to ensure clear legibility. It asked the Commission to draw up guidelines to ensure this legibility.

Nano materials

MEPs demand that products containing nano-materials be clearly labelled as such, using the epithet "nano" in the ingredient list.

No nutritional declaration for alcoholic beverages

MEPs voted to exclude alcoholic beverages from the mandatory nutritional declaration requirement.

Content of the nutrition declaration

MEPs agree with the Commission that information on the energy and nutrients should be given in relation to 100g or per 100 ml and possibly also per portion. They also favour making comparisons with the reference intake for energy and certain nutrients,

but want to make clear that these reference intakes are, for example, the "average daily requirement of a middle-aged woman and that the personal daily requirement of the consumer may differ".

Nutrient profiles deleted

While the EU commission services are still in the process of looking at implementing rules on certain aspects (as provided for in the EU framework legislation¹⁴) as, for instance, the setting of nutrition profiles¹⁵, MEPs voted to delete those nutrient profiles¹⁶, foreseen in the regulation on nutrition and health claims¹⁷ made on foods.

Entry into force

To give the industry enough time to adapt to the new rules, the regulation would enter into force 20 days after its publication in the EU Official Journal, but the rules on nutrition labelling would take effect 3 years later. For food business operators with fewer than 100 employees and an annual turnover and/or annual balance sheet total under €5 million they would take effect 5 years afterwards.

The first 2010 Case of Highly Pathogenic Avian Influenza Virus

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The recent Romanian outbreak of subtype H5N1 of the highly pathogenic avian influenza (HPAI) virus, the first detected case of H5N1 avian influenza in Europe in 2010, has reinvigorated the debate concerning risks related to the spread of avian influenza in the European Union.

The highly pathogenic H5N1 avian influenza is a strain of the avian influenza virus, a highly contagious viral disease primarily affecting birds.¹ While many wild bird species can carry avian influenza viruses with no apparent signs of harm, other bird species, including domestic poultry, develop the disease when infected with it. More precisely, avian influenza virus causes two forms of disease in poultry: the first is common and mild (LPAIV, low pathogenic avian influenza virus), the second is rare and highly lethal (HPAIV, highly pathogenic avian influenza virus).² HPAI was considered as a rare disease in poultry up to the end of 2003, when HPAI outbreaks in poultry caused by the Asian lineage HPAI H5N1 occurred in many countries.³ Such virus

14 In general, nutrition labelling is governed by Council Directive 90/496/EEC, as amended by Commission Directives 2003/120/EC and 2008/100/EC.

15 The setting of nutrition profiles restricts the use of nutrition and health claims on the basis of the nutritional composition of products, which allows for the establishment of a list of permitted health claims (both nutrient function claims and disease reduction claims).

16 The term 'nutrient profile' refers to the nutrient composition of a food or diet. 'Nutrient profiling' is the classification of foods for specific purposes based on their nutrient composition.

17 Reg. (EC) No 1924/2006 foresees the setting of nutrition profiles via the regulatory committee procedure with scrutiny by January 2009.

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1 M. Gauthier-Clerc, C. Lebarbenchon and F. Thomas, "Recent expansion of highly pathogenic avian influenza H5N1: a critical review", *Ibis* (2007), p. 202.

2 Available on the Internet at <http://www.who.int/mediacentre/factsheets/avian_influenza/en/> (last accessed on 11 April 2010).

3 B. Kamps, C. Hoffmann and W. Preiser (eds), *Influenza Report 2006* (Paris: Flying Publisher 2006), at p. 66.

can cause “mortality and disturbances which can quickly take epizootic proportions liable to present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming.”⁴ Moreover, evidence shows occasional transmission to human beings.⁵

Against this backdrop, the Council adopted a directive laying down Community measures for the control of both the low and high pathogenic forms of avian influenza (Directive 2005/94/EC⁶) aimed at fighting the spread of the avian influenza disease. Repealing and replacing Directive 92/40/EEC which established Community measures for the control of avian influenza⁷, the Directive 2005/94/EC has modified the existing legal framework in the light of (i) the evolution of scientific knowledge on the risks of avian influenza for animal and public health, (ii) the development of new scientific tools (mainly laboratory tests and vaccines), and (iii) the experiences of the worldwide outbreaks of this disease.

The Directive mainly sets out preventive measures relating to the surveillance and the detection of avian influenza, minimum control measures to be applied in the event of an outbreak of avian influenza in poultry or other captive birds and the early detection of possible spread of avian influenza viruses to mammals, and other subsidiary measures to avoid the spread of influenza viruses of avian origin to other species. Among those measures the Directive provides for the establishment of protection, surveillance and further restricted zones in the event of a highly pathogenic avian influenza outbreak.⁸ Member States are responsible, in the framework of the Directive, for adopting disease control measures – notably the establishment of restriction zones and biosecurity measures – in a proportionate and flexible manner.⁹ Commission Decision 2006/415/EC lays down additional protection measures to be applied in a Member State affected by highly pathogenic forms of avian influenza of the subtype H5N1 in poultry in order to prevent the spread of that disease.¹⁰

Pursuant to this legal framework, in March 2010, Romania reported to the European Commission a confirmed outbreak of HPAI H5N1 in a poultry farm in the village of Letea, close to the Ukrainian border.¹¹ The source of the infection is believed to be wild birds common in that area.¹² The Romanian authorities adopted the disease control measures laid down in EU legislation in order to limit the spread of the virus. These measures include the culling of

poultry in the infected farm and the establishment of restricted zones implying restrictions on movements and biosafety measures. Both a high risk area consisting of protection and surveillance zones (“area A”) and a low risk area separating this “area A” from the disease-free parts of Romania (“area B”) were created.

As provided for in Decision 2006/415/EC, the Commission has examined those protection measures in collaboration with Romania and, on 16 March, adopted the Decision 2010/158/EU establishing a list of the A and B areas in Romania.¹³ This Decision has defined the areas within which the interim protective measures provided for in Decision 2006/415/EC apply and also their period of application. Decision 2010/158/EU, which has been applicable until 17 April 2010, has been repealed and replaced by the Decision 2010/218/EU¹⁴. This new Decision has also taken into account a further outbreak in Romania, confirmed since the adoption of Decision 2010/158/EU, when defining the size of the A area and the period of application of the protective measures.¹⁵

4 Commission Decision 2004/122 of 6 February 2004 concerning certain protection measures in relation to avian influenza in several Asian countries, OJ 2004 L 36/59, recital 1.

5 See The Writing Committee of the World Health Organization (WHO) Consultation on Human Influenza A/H5, “Avian Influenza A (H5N1) Infection in Humans”, *The New England Journal of Medicine* (2005), p. 1374.

6 Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC, OJ 2006 L 10/26.

7 Council Directive 92/40/EEC introducing Community measures for the control of avian influenza, OJ 1992 L 167/1.

8 Article 16 of Directive 2005/94/EC.

9 See Directive 2005/94/EC, recital 12.

10 Commission Decision 2006/415/EC of 14 June 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in the Community and repealing Decision 2006/135/EC, OJ 2006 L 164/51.

11 See the Animal Disease Notification System, established by the European Commission, available on the Internet at <http://ec.europa.eu/food/animal/diseases/adns/index_en.htm>.

12 See <<http://www.defra.gov.uk/foodfarm/farmanimal/diseases/monitoring/documents/h5n1-romania-100315.pdf>> (last accessed on 11 April 2010).

13 Commission Decision 2010/158/EU of 16 March 2010 concerning certain interim protective measures in relation to highly pathogenic avian influenza of subtype H5N1 in poultry in Romania, OJ 2010 L 67/1.

14 Commission Decision 2010/218/EU of 16 April 2010 amending Decision 2006/415/EC as regards certain protection measures in relation to an outbreak of highly pathogenic avian influenza of the subtype H5N1 in poultry in Romania, OJ 2010, L 97/14.

15 Recital 5 of Decision 2010/218/EU.