

Codex Point of Contact for Canada
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Submitted Via Email

To Whom It May Concern:

RE: #18338026– v1 CCFL24 eWG E-commerce 2nd draft consultation request

On behalf of the Canadian Produce Marketing Association, it is my pleasure to provide comments to inform the Government of Canada's contribution to the Codex consideration on the use of technology to provide food information.

About CPMA

The produce industry generates over \$17 billion annually in economic activity throughout the supply chain and supports over 249,000 jobs across Canada. Based in Ottawa, the Canadian Produce Marketing Association (CPMA) is a not-for-profit organization representing companies active in the marketing of fresh fruit and vegetables in Canada, from the farm gate to the dinner plate spanning the entire produce industry. The Association's members include major growers, shippers, packers and marketers; importers and exporters; transportation and logistics firms; brokers, distributors and wholesalers; retailers and foodservice distributors; and fresh cut operators and processors. Founded in 1925, CPMA is proud to represent over 850 domestic and international members who are responsible for 90% of fresh fruit and vegetable sales in Canada.

General Comments

CPMA comments: Promoting international trade and investment with export markets is a priority for the Canadian produce sector. To increase market access and sustainability of the Canadian fresh fruit and vegetable industry, the harmonization of international standards must occur. This requires collaboration both within Canadian governmental agencies, and between the Canadian government and other governments with which we trade.

CPMA would therefore like to provide the following comments and responses to the following questions for consideration related to the use of technology to provide food information (*Appendix A – Proposed draft guidance on the provision of food information for pre-packaged foods to be offered via e-commerce*).

CPMA would like to provide comments on the below section:

5.1 Any food information required to be provided on the label of a prepackaged food or in associated labelling, should be provided on the product information e-page of the prepackaged

food prior to the point of e-commerce sale, except to the extent otherwise expressly provided in this, or any other Codex, text. This includes the following food information indicated in/by:

- *Section 4 and Section 5 of the GSLPF (CXS 1-1985) except information required by 4.6 and 4.7.1;*
- *Any other relevant Codex text including Section 3 of the Guidelines on Nutrition Labelling (CXG 2-1985);*
- *Any national regulations.*

CPMA comments to section 5.1: CPMA agrees that there should be certain exceptions for labelling provided on e-pages, for information that is typically mandatory on pre-packaged foods. This includes lot code (4.6) and date marking and storage instructions (4.7.1). Given that these pieces of information change quickly over time on a label, CPMA agrees that lot code, date marking, and storage instructions, should not be a requirement on an e-page.

It is important to note that due to the seasonality of fresh fruits and vegetables and volatility in sourcing, special consideration should be given in providing the country of origin on a e-page for pre-packaged fresh fruits and vegetables. For example, a company may source their berries from different countries throughout the year. Therefore, flexibility should be provided in how this information is declared, without having to continuously update country of origin on an e-page.

In relation to nutrition labelling (Section 3 of the Guidelines on Nutrition Labelling – CXG 2-1985), it is important that nutrition labelling exemptions that exist for certain foods, such as fresh fruits or vegetables without any added ingredients, including some food additives, are always exempt from nutrition labelling, including on an e-page. It is also important that the presence of a nutrition or health claim on a fresh fruit or vegetable without any added ingredients, should not trigger a Nutrition Facts Table on an e-page.

Specific Questions

Question #1: Do you agree that the guidance extends beyond the GSLPF and should be guidance rather than a supplementary text?

CPMA comments: No comment.

Question #2: Do you agree with the inclusion of a ‘purpose’ section at the beginning of the guidance?

CPMA comments: Yes, a purpose section provides clarity and direction for the draft guidance being developed. It is important that the complexity of digital platforms is acknowledged within this section:

PURPOSE: *The purpose of this guidance is to ensure consumers buying prepackaged foods via e-commerce have adequate information to make informed choices, similar to the information they would find on the physical label of the food. It also aims to provide additional provisions that should be used specifically when food is offered for sale via e-commerce, as outlined in Section 5, to address the specific complexities of dealing with digital platforms.*

Question #3: Do you agree with the altered WTO definition of e-commerce?

CPMA comments: Yes, we agree with the definition of e-commerce, which is defined as:

“E-commerce” means: the distribution, marketing, sale or delivery of goods and services by electronic means by methods specifically designed for the purpose of receiving or placing of orders. [Adapted from the WTO definition as of 2022]

Question #4: Do you agree with the use of ‘prior to’ the point of e-commerce sale?

CPMA comments: Yes, we agree with the use of ‘prior to’ the point of e-commerce sale.

Question #5: Do you agree with the removal of ‘or required by national legislation’ in the food information definition to align with the Use of Technology draft guidance?

CPMA comments: Yes, definitions should be aligned whenever possible.

Question #6: Do you agree with the removal of small unit exemptions and minimum durability periods and replacing with the 5.3?

CPMA comments: The initial proposed draft guideline states that:

“If a Codex standard or related text exempts certain information from being shown on the label [or labelling] of a prepackaged food (e.g. due to small packaging), a competent authority may decide if that information [should/shall] be shown using technology, taking into consideration their general population’s access to the use of that technology.

This guideline provides more information, for instances where a competent authority may decide if that information should be shown using technology, and provides clarity than the general 5.3 statement below.

5.3 A competent authority may require other information about the prepackaged food be stated on the digital platform and may specify at which point in the e-commerce sale that information should be shown.

The Canadian delegation must also work to ensure that any Codex Standards under consideration are consistent with labelling requirements under the Canadian government’s *Safe Food for Canadians Act*, *Safe Food for Canadians Regulations*, and recent changes to the *Food and Drug Regulations* – and that any changes will not result in further compliance costs for Canada’s fresh produce industry.

Question #7: A. Do you agree with the principle set out in 7.2?

B. Would you prefer

- a. the current 7.2 additional languages sentence, or
- b. ‘Information should be in a language or languages easily understood by consumers in the country in which the food is marketed and to which it may be delivered.’, or
- c. a different iteration of 7.2?

CPMA comments: The principle set out in 7.2 is acceptable:

7.2 The language on the product information e-page should be suitable for the consumer for whom it is intended. When appropriate, additional language(s) product information e-pages may also be provided.

It's important to note that there should be a difference in language requirements for e-commerce sites (i.e. Rob's retail store) and company websites for products that may appear on an e-commerce site (i.e. tomatoes from Tomato Fresh Farms). Products that may appear on an e-commerce site (i.e. tomatoes from Tomato Fresh Farms) should not be obligated to translate their website, rather this should instead be a commercial decision. Translation of a website is an expensive cost to a company and should not be required at the product level.

Other comments: Given the digital world we live in, one concern we have is how food information on an e-commerce page will be regulated. Moreover, how will this be regulated if the operating e-commerce site/company is located outside of Canada? Our understanding is that the Canadian Food Inspection Agency (CFIA) has no jurisdiction outside of Canada. How will Canada be able to enforce regulations on a website/company that is not Canadian-operated?

Appendix A

PROPOSED DRAFT GUIDANCE ON THE PROVISION OF FOOD INFORMATION FOR PREPACKAGED FOODS TO BE OFFERED VIA E-COMMERCE

1. PURPOSE

The purpose of this guidance is to ensure consumers buying prepackaged foods via e-commerce have adequate information to make informed choices, similar to the information they would find on the physical label of the food. It also aims to provide additional provisions that should be used specifically when food is offered for sale via e-commerce, as outlined in Section 5, to address the specific complexities of dealing with digital platforms.

2. SCOPE

This guidance applies to the food information required, or provided voluntarily, for prepackaged foods offered for sale via online platforms and to certain aspects relating to the presentation thereof, prior to the moment when a consumer commits to make a purchasing order.

It does not apply to information that is required on prepackaged foods at the point of delivery.

3. DEFINITIONS

The following terms should be used in conjunction with Section 2 of the General Standard for Labelling of Prepackaged Foods (GSLPF) (CXS 1-1985) for the purposes of applying this text.

“E-commerce” means: the distribution, marketing, sale or delivery of goods and services by electronic means by methods specifically designed for the purpose of receiving or placing of orders. [Adapted from the WTO definition as of 2022]

“Food information” means: the information about a prepackaged food that is the subject of a Codex standard or related text.

“Prior to the point of e-commerce sale” means: provided before consumers commit to make the purchasing order regardless of making any payment.

“Product information e-page” means: the virtual space on any consumer-facing transactional digital platform, which is intended to facilitate informed e-commerce activity.

4. GENERAL PRINCIPLES

The general principles in section 3 of the GSLPF (CXS 1-1985) are applicable to food information shown on the digital platform of the prepackaged food that is being offered for sale.

5. FOOD INFORMATION PRINCIPLES

- 5.1 Any food information required to be provided on the label of a prepackaged food or in associated labelling, should be provided on the product information e-page of the prepackaged food prior to the point of e-commerce sale, except to the extent otherwise expressly provided in this, or any other Codex, text.

This includes the following food information indicated in/by:

- 7 Section 4 and Section 5 of the GSLPF (CXS 1-1985) except information required by 4.6 and 4.7.1;
 - 8 Any other relevant Codex text including Section 3 of the Guidelines on Nutrition Labelling (CXG 2-1985);
 - 9 Any national regulations.
- 5.2 A statement should appear on the product information e-page prior to the point of e-commerce sale to direct the customer to check the food information on the physical label before consumption.
- 5.3 A competent authority may require other information about the prepackaged food be stated on the digital platform and may specify at which point in the e-commerce sale that information should be shown.

6. OPTIONAL FOOD INFORMATION PRIOR TO THE POINT OF E-COMMERCE SALE

Section 7 of the GSLPF (CXS 1-1985) is applicable to food information shown to consumers on the digital platform of the prepackaged food that is being offered for sale.

7. PRESENTATION OF MANDATORY FOOD INFORMATION

- 7.1 Food information required by this text should be clear, prominent, and readily legible by the consumer under normal settings and conditions of use of such platforms.
- 7.2 The language on the product information e-page should be suitable for the consumer for whom it is intended. When appropriate, additional language(s) product information e-pages may also be provided.

- END -

Explanation of Changes

1. Some respondents said this document extends beyond GSLPF and so the text should be a standalone guidance rather than a supplementary text. The Chair and Co-Chairs believe this is a sensible approach - we do extend beyond the scope of the GSLPF in Section 5 and by introducing new definitions. We have therefore changed the title of the document from 'Proposed Draft Supplementary Text to the GSLPF on the Provision of...', to 'Proposed Draft Guidance on the Provision of...'.
2. We have included a 'Purpose' Section which will hopefully aid the understanding of what the text is trying to achieve, linking back to the initial work proposal.
3. We have removed "or required by national regulations" from the end of Food Information definition so that it aligns with the Use of Technology text which also uses this definition – the two texts now have identical definitions of Food Information.
4. In the previous draft, we asked the Codex members and observers whether we should use 'prior to', 'by', or 'at' the point of e-commerce sale. We received a consensus of 'prior to' and this has been adopted throughout the text, including the definition "Prior to the point of e-commerce

sale” – this changed the definition to “PROVIDED BEFORE consumers commit to make the purchasing order....”.

5. Given the lack of consensus (around 50/50) on the inclusion of small unit exemptions and minimum durability periods, we have decided to seek opinions on the removal of these points. Instead, we have added 5.3 to allow competent authorities to allow these if they so wish.
6. We have added the sentence on additional language pages as requested by countries/blocs that have more than one national language.