

16th June 2006

Comments on DG SANCO Consultative Document Labelling

Eurogroup for Animal Welfare is a federation of animal welfare organisations representing the views of civil society throughout the EU.

Eurogroup welcomes the opportunity to comment on the consultative document on labelling. As requested, our comments are structured below to match the relevant sections in the text (section 2), preceded by some general comments (section 1).

Where reference is made to paragraphs, they refer to paragraphs of the consultative paper, and not to those of this document.

Section 1

1) The right of consumers to be fully informed is now widely recognised. Labelling makes it possible for consumers to have an informed choice about the products that they are buying. Labelling also makes it possible for producers of higher welfare standards to recover some of their increased production costs in the market place. Labelling can be one of the least trade restrictive measures. Although labelling does not provide a complete answer to ensuring that higher animal welfare standards are not compromised, it is one of a range of measures that can be used. But it is important that a framework is agreed to ensure that labelling does not provide an unintended restriction to trade. Higher welfare food products are often difficult or impossible to distinguish from lower alternatives. So clear labelling is required as a mechanism to differentiate the products on the basis of animal welfare criteria. However, it is evident that labelling, particularly of non-process PPMs is one of a range of tools that can be introduced, and does not provide a complete satisfactory solution to animal welfare problems in itself.

2) The market failures referred to in para 6 have resulted in underperformance in a potentially large market for animal welfare.

In other sectors where there is not mandatory labelling the willingness of consumers to pay for higher welfare products is clearly shown through the Eurobarometer survey referred to in the paper. 57% of the EU-25 public surveyed said that they would be willing to pay a price premium for eggs from welfare friendly systems. In the UK a survey by a top retail outlet of its customers found 51% of the 29,000 surveyed put animal welfare in their top three priorities.

However these preferences and aspirations can only be translated into purchase decisions with transparent and clear labelling. It is clear from the Eurobarometer survey that this demand is not yet being met. 87% of the 45,000 consumers surveyed felt that food retailers do not provide enough information on welfare conditions and 89% felt that livestock production methods should be labelled more clearly to indicate animal welfare conditions. The pressure on retailers to offer competitive prices can often conflict with moves to improve animal welfare and highlights the need for mandatory labelling.

Greater and quicker switches by consumers could occur if retailers were required to label clearly the welfare status of all livestock products.

The growth in Freedom Food, the only assurance scheme in the UK solely dedicated to animal welfare, is an indication of a significant market for animal welfare. (Box 1)

Box 1

Freedom Foods. An Example of a Strong Market for Welfare

In the UK the Freedom Food scheme now accounts for over 90% of all free range eggs on sale. It has recently moved into providing a higher welfare bred and kept chicken. Production of birds reared to Freedom Food standards has increased by more than 160% in the two year period following its launch in 2004 to 17 million birds a year.

This increase in sales comes at a time of decreasing consumer confidence in chickens from avian flu fears and a decline of 1% in sales of chicken reared to baseline standards. Although Freedom Food chicken represents only a 1.9% market share of chicken meat sold in the UK this has been achieved under a voluntary labelling system and in a consumer atmosphere where welfare issues of chicken production are poorly understood and most consumers shop on price.

3) The role of labelling in supporting the market for animal welfare is currently undermined by misinformation. An example would be the use of imagery (e.g. rustic scenes, animals depicted outside) or evocative but imprecise wording (e.g. "Farm Fresh" or "Poulet Fermier") which imply extensive production when this may not be the case.

A survey by Eurogroup of egg labelling in 2004 found this practice to be widespread in Europe, at least with respect to eggs.

This built on a previous MORI poll that was commissioned by Eurogroup in 1998, which found many (up to 75%) of consumers were confusing eggs from battery and non-caged systems (summary attached in the accompanying Email to this document as EggLabellingMoriPoll_Jun98.pdf. We can supply you with the full report on request).

In our opinion Community legislation on egg labelling already outlaws such practice (EC 2295/2003, Article.1) but the above survey found the law was not enforced. Spot checks we have performed since have failed to find any real improvement.

A similar problem exists with the use of brand names, such as "Le Naturelle" eggs.

Further examples, from products other than eggs, are given in the 2004 Consumer International report "Green Food Claims" (attached in the accompanying Email to this document as CI Green Claims report.pdf).

The entire document is of relevance to this consultation, but we would draw your attention in particular to the Executive Summary (pp 11-12) and pp 25-31.

Eurogroup believes that food law should expressly prohibit such practices for all animal products. In support of this we refer to Article 8 of the new EU Food Law – Regulation (EC) No. 178/2002 which is headed *Protection of consumers' interests* and provides that *"Food law shall aim at the protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume. It shall aim at the prevention of:*

- a) *fraudulent or deceptive practices; and*
- b) *....*
- c) *any other practices which may mislead the consumer".*

As Eurogroup has previously stated to the Commission, we believe that labelling should be clear, honest and reflect the level of the welfare under which the animals were raised.

- 4) As stated below, Eurogroup sees labelling as one tool in a broader communication strategy. Such strategies require repeated evaluation and iteration. Furthermore, the use of labelling is becoming more and more difficult in a market which is increasingly crowded with labels (according to the Fairtrade accreditation body, Max Havelar, who say they took some 20 years to establish their label). A mechanism is therefore required that goes beyond this consultation to allow the effectiveness of the overall communication strategy, and of labelling as part of that, to be evaluated and fine tuned.
- 5) Some forms of labelling, such as those relating to marketing standards for eggs, currently fall under the responsibility of DG Agriculture and Rural Development. Both with respect to the overall objectives of labelling (Communication with the consumer – see paras 3 to 6) and in the specific context of animal welfare, (where communication with the consumer needs to take into account the complex and difficult nature of the market for animal welfare), the responsibility for such issues should lie with DG SANCO.

Section 2

6) *Para 8 –A communication strategy*

We would agree that labelling legislation should take account of the broader issue of communicating with the consumer. There are two points that we would make of relevance to the broader issue of communication.

- Although it is still work in progress, the analysis to date from the Welfare Quality project stresses the advantages of dialogue with, rather than ‘broadcasting to’, consumers.
- The 2005 Eurobarometer survey on attitudes to animal welfare demonstrated the dramatic impact that even minor exposure to farming has on consumer attitude and purchasing behaviour. We have presented this graphically on page 2 of the PDF to be found at http://www.eurogroupanimalwelfare.org/pdf/eurobarometer_nov05.pdf A communication strategy should inform consumers about livestock farming in general, as well as specific issues of animal welfare.

7) *Para 11. – Mandatory of voluntary?*

The evidence is that voluntary schemes are not appropriate for animal welfare labelling.

Box 2 expands on this, using the example of eggs.

Box 2

Mandatory Labelling.

The Case of Eggs

There is currently only one mandatory labelling scheme in operation that has a welfare goal: Regulation 5/2001 on shell eggs. This was introduced after voluntary schemes failed to provide consumers with clear transparent information. A voluntary labelling scheme for shell eggs existed for over ten years in the European Union but research showed that consumers were still confused about the provenance of eggs on sale. Polls in France and Germany found 77% of French consumers and 63% of German consumers confused intensive battery eggs with alternate extensive systems. The problem was that there was no incentive for lower welfare eggs to list their method of production as this would reduce consumer demand. Use of labels with phrases such as farm or country fresh increased consumer confusion.

After the mandatory labelling scheme was introduced in 2004, although there are still some compliance issues in Member States it has provided greater information and more opportunity for consumers to exercise choice. For instance in the UK sales of free range eggs have increased from 22% of the market share in 2001 to 30% in 2005. Barn eggs' market share has remained constant and caged eggs share has declined from 70% to 63%. This five year period covers the implementation of mandatory egg labelling scheme. Indeed there was a 6%

increase in market share of free range eggs in the two year period after mandatory labelling was introduced in January 2004 compared to a shallower increase of under 2% in the preceding three year period highlighting the effectiveness of a mandatory labelling scheme.

In Switzerland, a country where the battery cage system was prohibited in 1992 but which had competition from France, Italy and Germany on imported shell eggs produced at standards below the national one, a mandatory labelling scheme was introduced in 2000 to improve transparency and consumer awareness in the market place. This applied equally to imported as well as home produced eggs. Eggs were required to be labelled "*Produced in battery cages, which are not permitted in Switzerland*". In this respect it was a more robust scheme than that contained under Regulation 5/2001, where the wording on imported eggs could simply state the country of export rather than the method of production. Market share of Swiss eggs increased after the ban from 62% to 74%, even in the face of continued cheaper imported eggs from outside the country.

We are furthermore concerned that fears of WTO compliance will prevent further expansion of mandatory labelling into other areas such as, for example, broiler chickens. The Commission should accept that voluntary and mandatory labelling are acceptable under the WTO and that each WTO member should decide its level of information; mandatory labelling schemes can be the least trade restrictive providing they fulfil certain obligations. Although it is clear from WTO jurisprudence that voluntary schemes are permitted there has been no case taken on an animal welfare non-product-PPM issue to date.

However there are certain provisions that can be taken to ensure that a labelling scheme is not a discriminatory trade barrier, in particular transparency of the scheme.

- o This can be achieved through active dissemination of information or technology transfer, in particular to developing countries (as will occur over the next five years as the Community implements the Animal Welfare Action Plan 2006-2010).
- o Labelling schemes should also be verifiable, clear and audited.
- o Efforts should be made to involve stakeholders from other countries to avoid problems of discrimination and in particular the Commission should include technology transfer options and assistance in particular to developing countries.
- o The recent agreement by the OIE on the four first global animal welfare standards also provides a real opportunity to use these as baseline standards in any future WTO dispute.

There are limitations to mandatory labelling under current market structures. For instance, on the egg issue, it is not on shell eggs where the main competition disadvantages lie but on egg products. Imports of liquid and dried egg for use in egg products rose by 40% in the past five years and now account for 13% of total EU market share. Egg products are becoming more important. The latest data for the UK shows that shell eggs now account for 48% of the market, the wholesale and catering industry taking up 29% and 23% being used in products. Projections by the egg industry show that egg products will continue to rise and will account for up to 40% of the European egg industry by 2012 as the market in restaurants and fast food continues to develop. Several retail outlets in the UK are now labelling their products on the production method, but it is doubtful if labelling could produce the entire solution as there is no market segregation between egg products from battery and alternative systems. At present the British food service industry uses 95% caged eggs and the processing industry 90%. The increasing importance of hotels and the restaurant trade, where mandatory labelling is much more problematic, highlights the limitations of labelling in this area.

Overall, the demands for more mandatory schemes based on welfare standards are growing. The British government's scientific advisory body, the Farm Animal Welfare Council, issued its report on labelling in June 2006 and recommended that the UK government should press at the EU level for a single accredited mandatory labelling system on animal welfare grounds which would apply to freshly produced as well as processed products and imported goods. The scheme should cover the welfare of individual animals over the course of their lives and be as simple as possible. Of course these demands do present a challenge but it is

hoped that the Commission will take on this challenge and respond to the consumer calls from its own Eurobarometer survey which are clearly demanding greater transparency in information and the links between improving animal welfare and the final product on sale.

8) *Para 32 – Labelling according to origin*

- Eurogroup does not believe that a label of European origin offers any benefit to consumers. Indeed, if this were to imply an automatic link between European production and higher standards of welfare, it would in some cases be misleading.
- Third country imports should be subject to European labelling requirements with respect to animal welfare. Our legal opinion in the case of eggs is that this is compatible with WTO rules (attached in the accompanying Email to this document as Egglabelllegal_mar04.doc).
- The issue is not restricted to 3rd country imports however, but also to the internal market. Current labelling practice on the origin of products can mislead consumers on several aspects of quality, not least on the amount of live transport that the animals in question have endured.

We hear many reports of live animals imported from one EU state into another which are slaughtered in the importing country's abattoirs then sold as 'home-produced' or 'home-killed' and as such attract a substantially higher price than imported meat. The higher price provides an incentive for imported animals to be sold as home produced. Consumers tend to be willing to pay more for local than for imported meat. This is illustrated in the case of beef by section 4.4 of the Commissions report into beef origin labelling, available at <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:52004DC0316:EN:HTML>

There are no statistics as to prevalence of the practice of selling the meat from imported sheep and pigs as home produced, but it appears from discussions with people in the trade that it may be quite common. It would, for example, explain why French importers are prepared to pay much more (around €1 per kg deadweight) for imported live lambs than for imported lamb meat. This only makes sense if the meat from the imported live lambs can be sold for more than the imported meat and the only way in which this can be done is if the meat from the imported live animals is presented as something different from, and superior to, imported meat.

There is specific clause in EU law that sets out the specific labelling requirements for products from animals that have crossed international borders. However, the new EU Regulation on food law provides in Article 18 on traceability that:

- a) The traceability of food and food-producing animals shall be established at all stages of production, processing and distribution.
- b) Food business operators shall be able to identify any person from whom they have been supplied with a food or a food-producing animal.
- c) Food that is placed on the market shall be adequately labelled or identified to facilitate its traceability (EU food law regulation, 2002).

Eurogroup therefore believes that steps should be taken to prevent meat from imported live animals being labelled as domestically produced.

We also believe, in response to the question posed in bullet 4 to para 32, that this should be through legislation rather than guidelines. This is because;

- o Guidelines are not an effective tool when they run counter to a strong economic incentive (as illustrated above).
- o Guidelines alone would leave the European market poorly harmonised. The problem of labelling of imported meat detailed above contravenes some national laws concerning the use of inaccurate labelling or misleading trade descriptions. For example, France's Code de la Consommation (article R 112-9) requires food labels to state the place of origin or provenance whenever the omission of this would be such as to create confusion in the mind of the buyer of the real origin or provenance of the foodstuff.

7) *Paras 33-36 - Welfare Labelling*

- The assertion that inappropriate, unclear or missing labelling compromises the consumers ability to identify high welfare foods is correct – but it should be noted that the market failures referred to in para 6 are not confined to labelling alone. Asymmetries of information, availability issues, security of contract and free-riding appear all to play their part in distorting the market. Similarly, although we are familiar with studies that support the paper’s assertion that consumers would prefer *“simple symbolic labelling”* we do not believe there is a conclusive body of evidence on the subject. Indeed, the means by which a label communicates would partly be determined by the role that labelling plays within a broader communication strategy. For example, the UK’s Freedom Foods scheme have used ‘peel and reveal’ stickers to good effect, whereby the label provides further information on the welfare of the animals in question, which is coupled to complementary information on welfare and farming disseminated by the RSPCA. The Managing Director of Freedom Foods believes that this labelling strategy has been effective in converting trial purchases into sustained shopping patterns. Our conclusions are therefore that;
 - Further research on consumer perception is required. The Welfare Quality project is addressing these issues in many ways, but is still work in progress. The Commission should therefore make sure that the labelling consultation is up to date on the project’s outputs. It should also invite comments from the project’s researchers on this specific issue.
 - As started above, labelling should be put in the context of a broader communication strategy.

Specifically with respect to paragraph 36 (*“labellingmakes particular sense if there are different standards allowed by community legislation”*) the implication that there are some commodities where higher standards are not permitted is wrong, as would be any conclusions drawn from it that welfare labelling would be somehow inappropriate in some circumstances.

In all production systems, including those that are already subject to EU regulation, producers have the possibility of improving animal welfare. In each case, communicating the higher standards of welfare is in the interest of the animals, consumers, producers and the market alike.

Indeed, the primary function of labelling should be to inform the consumer when standards of welfare exceed the minimum legal standard. Consumers are entitled to expect the production of their food to conform with the law as a matter of course.

In many countries, welfare standards are influenced by assurance schemes – which may or may not be welfare specific. Some of these schemes use a range of tools, including labelling, to communicate this to consumers. Eurogroup believes that they should only do so within a legal framework that ensures the level of welfare is effectively communicated to the consumer, and independently audited. We further believe that when two or more assurance schemes exist which set different standards of welfare, the absence of such a framework allows labelling to compound, rather than diminish the market failures referred to in para 6.

The problem here is that a consumer who is faced with a choice of products which profess high welfare standards, but who is not given any guidance on the difference between them, can only make their purchasing decisions on price. With competition consequently focussing on price, market forces push standards into a ‘race to the bottom’ to the detriment of quality. This is the so-called *‘market for lemons’*¹, a term drawn from the notorious second hand car market where consumers are poorly placed to judge quality.

In the UK for instance, several assurance schemes compete in the market place. It is instructive to compare the critique of the welfare provisions of the British Farm Standard found at http://www.ciwf.org.uk/littleredtractor/Truth_Behind_Little_Red_Tractor.htm with those of the Soil Association at http://www.ciwf.org.uk/littleredtractor/A_Better_Way.htm

¹ Akerlof, G. 1967.