



Executive Vice President Frans Timmermans
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels

Re: Act on the transparency of information on agricultural and food products

Brussels, 14th July 2020

Dear Executive Vice President Timmermans,

On behalf of the undersigned organisations, we are writing regarding the *Act on the transparency of information on agricultural and food products*, which was recently adopted by France.

We have serious concerns about this legislation, which – under the provisions of Article 5 - prohibits the use of names used to indicate foodstuffs of animal origin, to describe, market and promote foodstuffs containing vegetable proteins, beyond a threshold which will be set by decree.

This legislation was notified by the French government to the European Commission on 5th June 2020 under TRIS Notification Number 2020/338/F (France). However, this law was adopted by the French Parliament *before* the mandatory three-month standstill period for a technical regulation had passed.

We were informed by DG GROW that the procedure was closed under the Single Market Transparency Directive (SMTD). Given that this technical regulation is no longer a draft, the legislation no longer applies. Nonetheless, we understand that it is still possible for the European Commission to act outside the context of the procedure set forth by this Directive.

The undersigned organisations have grave concerns as we find that the French legislative **provisions to prohibit** the use of ‘meat’ denominations for plant-based products **are disproportionate, protectionist and incompatible with EU rules**. Moreover, this legislative action also **undermines the European Commission’s efforts via the Farm to Fork Strategy, which seeks to develop a more environmentally friendly and sustainable food system and promote more plant-based diets**.

We therefore urgently call on the European Commission to request clarification from France regarding the *Act on the transparency of information on agricultural and food products*. In the following, we outline the various reasons why we believe the Commission should act on this French law.

1. The provisions are disproportionate

We believe that the French legislation is a **disproportionate measure that will damage businesses**. It would unfairly disadvantage the producers of plant-based products, for the benefit of producers of meat (who would gain exclusive use of terms such as "burger" or "sausage"). This would be of significant detriment to existing businesses that have built brands, product portfolios and intellectual property based on names that could be restricted.

Such a measure would also be unnecessarily **trade-restrictive**, disadvantaging businesses from other countries, which wish to market plant-based products in France. Furthermore, the French legislative action can be seen to **form a barrier to growth for a burgeoning sector of the food industry**. Plant-based products cater to the nutritional needs of a growing number of consumers who are seeking to reduce or eliminate animal products from their diets.

In this regard, this French legislation is clearly **undermining the EU Farm to Fork Strategy**. Indeed, the European Commission's Communication on this Strategy explicitly acknowledges that "moving to a more plant-based diet with less red and processed meat and with more fruits and vegetables will reduce not only risks of life-threatening diseases, but also the environmental impact of the food system." It is incredibly counterproductive – at a time when the European Commission is seeking to encourage and promote more sustainable diets – to make it more challenging for (French) consumers to easily identify plant-based meat analogues and choose foods that usually have a significantly lower climate and environmental impact compared to animal-based foods.

2. The provisions are protectionist

There is no rational or justifiable reason to ban the use of meat denominations for plant-based products. This can only be viewed as a **protectionist measure** advocated by the meat industry. There is no evidence that the terms that have traditionally been used to denote meat products are misleading for consumers when used in the context of non-meat products. Indeed, consumers intentionally purchase these items because they do not contain meat, dairy or eggs.

Renaming recognised names and brands would provide no further clarity for consumers of meat and would be unnecessarily confusing to consumers of non-meat products. Indeed, one can argue that it would instead **undermine the EU's consumer protection agenda** by needlessly introducing uncertainty around the naming of plant-based goods.

3. The provisions are incompatible with EU rules

The measures adopted by the French government essentially amount to **prioritising the interests of consumers of meat over consumers of non-meat products**. In the context of the common organisation of agricultural markets, Article 40(2) of the TFEU states that it should "exclude any discrimination between producers or consumers within the Union."

Additionally, we are concerned that the French measures are **incompatible with the provisions of Regulation (EU) No 1169/2011 on the provision of food information to consumers**. Article 9 of this legislation stipulates that consumer information should, firstly and above all, state the "name of the food". Indeed, this measure makes it impossible for plant-based food manufacturers to name and market their products with a customary, clearly recognisable term and, therefore, to also comply with this legislation.

Finally, we note that, while not necessary, there are a number of **less restrictive alternatives and more proportionate measures** that the French government could implement to better distinguish plant-based products if they genuinely believe this is a problematic issue. These could include **more stringent requirements for clear labelling** on the packaging of plant-based goods that emphasises that the products do not contain animal-derived meat in clear, identifiable font.

They could also require the use of **qualifiers**, such as "plant-based", "vegan" and "vegetarian" before meat names. We note that most plant-based meat analogues are already being marketed in such a way. The fact that these products are not animal-based is their key selling-point.

In view of the above, we respectfully ask the Commission to act and request clarification from France about this disproportionate and protectionist legislation that is incompatible with EU rules.

In the context of the European Green Deal, it is vital that the Commission act against this counterproductive Member State legislation, which could slow the growth of the plant-based market at a time at when sustainable diets should be actively promoted to protect the environment and public health, as well as to combat climate change.

Please do not hesitate to contact Dr Joanna Swabe via jswabe@hsi.org if you have additional questions, or wish to discuss this issue with us via video conferencing.

Yours sincerely,

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