

FoodDrinkEurope comments on the Netherlands policy rule on precautionary allergen labelling

FoodDrinkEurope, the organisation representing the EU food and drink manufacturing sector, welcomes the opportunity to comment on the notification of the Dutch policy rule on precautionary allergen labelling (hereafter PAL) ([2024/0678/NL](#)).

FoodDrinkEurope would like to highlight the following concerns with regard to the proposed policy rule.

Clarification on mutual recognition and scope of the legislation is needed

From the text of the policy rule, it is not clear whether the mutual recognition clause will be applied, as this is only mentioned in the notification message text and not the draft law itself. FoodDrinkEurope would like to request a clarification on this point. The exact scope of the legislation should also be clarified.

Precautionary allergen labelling needs to be harmonised at EU level

The Dutch order will fragment the EU Single Market, harm the competitiveness of European industry and create confusion for consumers, setting a worrying precedent for further fragmentation of important food information topics across the EU. Safeguarding the smooth functioning of the Single Market is of utmost important to Food Business Operators (FBOs).

Non-compliance with article 34 of the Treaty on the Functioning of the European Union (TFEU)

Should the mutual recognition clause not apply, the Dutch policy rule should be deemed as not compliant with Article 34 TFEU, since it will have an impact on trade within the Single Market. There are currently still different approaches to PAL labelling in the EU Member States due to the lack of harmonisation. Applying different threshold levels for PAL will inevitably lead to a situation where products intended for multiple countries will bear different PAL statements. For instance, a product may carry a PAL statement and be marketed in one EU country, while in the Netherlands it may be sold without PAL. This might increase consumer confusion and force the manufacturer to re-label their products for the Dutch market. Furthermore, the Dutch authorities fail to provide adequate evidence to justify this strict use of PAL, despite the fact that the agreed Guidelines already recognise the challenge of applying a single threshold value to products sold in multiple countries.

Such requirements create a disproportionate barrier to trade within the Single Market, as they might hinder access of products from other Member States to the Netherlands. Establishing harmonised rules on PAL is crucial for fostering a unified understanding across the EU.

Significant and disproportionate economic impacts for the sector

The Dutch authorities justify the measure on public health grounds and also quantify the cost of the changes of label at between 50,000 to 200,000 EUR depending on the size of the company. However, should the mutual recognition clause not apply, the Dutch authorities did not consider that while products intended solely for the Dutch market will need to adapt only once, products intended for multiple countries will need to either apply stickers or entirely relabel their packaging only for the Dutch market. This entails more than just the cost of a label change, as some products might need to be processed on separate production lines or stored in dedicated warehouses before being distributed to the Dutch market. Consequently, the Dutch authorities failed to consider the full impact of this policy and are in breach of the principle of proportionality, which requires that the measure is really suitable, necessary and appropriate.

In light of the above, FoodDrinkEurope would recommend that the European Commission urgently addresses precautionary allergen labelling in view of harmonising the Single Market and, if the mutual recognition clause does not apply, takes the necessary steps to prevent the adoption of the proposed policy rule in the Netherlands.

We thank you for taking our comments into consideration and we remain at your disposal for any additional information or clarifications needed.
