

## Jeremy Coller Foundation - Comments on TRIS Notification 2023/0510/FR

Our comments relate to the [draft Decree 2023/0510/FR](#) on “the use of certain designations used to describe foods containing vegetable proteins”.

### 1) The Decree will disrupt EU legislation and free movement of goods on the Single Market

- Firstly, **EU law already provides a regulatory framework** for the denomination of food products. Such a framework can be found in the EU's Common Market Organisations Regulation 1308/2013 establishing a common organisation of the markets in agricultural products (“CMOs Regulation,” as amended by Regulation 2021/2117) and its implementing regulations. In our opinion, based on the principle of subsidiarity, if a Member State has concerns over a lack of consistent and specific regulatory framework at EU level, such a Member State should then turn to the European Commission to amend these regulations, rather than enacting their own national laws, which poses the risk of fragmenting the EU Single Market by creating distortions in competition between EU business operators.
- Furthermore, this Decree ignores pre-established EU agreements on the denominations of plant-based foods. During the most recent revision of the CMOs Regulation, [the European Commission decided not to amend the CMOs Regulation so as to allow the use of meat denominations for vegetable proteins](#). The same [issue is currently being settled by the Court of Justice of the European Union](#), which could render national variations of the law illegal within less than a year. To **prevent fragmentation of trade and disruption within the EU Single Market**, there should be consistency in terminology across EU Member States, and any amendments to existing regulation are the responsibility of the European Commission by virtue of its competence in regulating the agricultural market.
- **Under the notion of equivalence, there must not be distortions in fair competition between EU business operators marketing substitutable products**, which the prohibitions in this draft law would generate. Such a rule would discriminate between substitutable – and thus competitive – products, thereby undermining fair competition between business operators in the French and EU markets. By the definition of these foodstuffs in question aiming to replace or provide an alternative to those of animal origin, European consumers have deemed that the products are equivalent under the standards set by the World Trade Organization (WTO) when determining competitive products (“like products”), as follows: “products are competitive or substitutable when they are interchangeable or if they offer, as the Panel noted, “alternative ways of satisfying a particular need or taste” (KDS75, Korea — Alcoholic Beverages, 2000).
- In addition to countering EU legislation, this Decree also directly **deters the EU’s efforts to support novel protein innovation and shifting towards more sustainable diets**. This is a crucial aspect of the [FOOD2030](#) initiative in “supporting the transition towards sustainable, healthy and inclusive food systems, that respect planetary boundaries”. Restricting the designations of plant-based foods will set back this mission and restrict opportunities to deliver the initiative’s sustainability and nutrition ambitions. The [EU has already invested over €50 million into alternative protein research](#) and development, including [€25 million](#) through the flagship Horizon

Europe programme, whereas this Decree would restrict the ambition for growth of the plant-based market.

## 2) The Decree will disadvantage French producers

- The practical basis of Article 3 is questionable, due to the fact that **many animal protein products might typically contain more than the allowed percentage of plant protein**. For example, meat products often utilise plant ingredients for functionality like [vegetable casing](#), and [corn dextrose](#).
- Further company innovation for flavour or texture and efforts to improve the health of processed meat products, which are typically classified as a category D on the nutri-score scale, could be limited by these rules. Examples of animal products seeking to improve the nutritional content through the use of plant-based ingredients include [pork sausages mixed with chickpea flour](#) and this “[flexitarian range](#)”, including sausages that contain 60% animal protein and 40% plant-based ingredients. Compositions of this kind, which are growing in popularity for health reasons, would remain reserved for importing producers under this Decree, **creating an unfair competitive disadvantage for French manufacturers**. This rule would further undermine consumers’ interests by limiting the selection of healthier products.
- The market disadvantages imposed on French producers will **stifle innovation and pose disproportionate hurdles for small and medium sized enterprises (SMEs)**. It will tilt the competitive landscape in favour of established players and big businesses that can more readily absorb the necessary marketing and R&D spending for new labelling. Meanwhile, smaller companies will be compelled to reallocate scarce resources towards rebranding efforts without being able to use terminology that clearly communicates the intended resemblance and application of their products to traditional meat. Therefore, not only does this Decree work against consumer clarity, it harms French companies.
- Not only would the proposed Decree negatively affect the existing French animal protein sector, but it would also harm the growing French plant-based sector. As per Article 5, the Decree will not apply to products manufactured outside of France. Therefore, **imported products will have a marketing advantage** and become more accessible to consumers.
- Due to the vast market share of plant-based products, this Decree negates market demands. **Plant-based foods in France make up a [€425.7 million sector](#), the fifth largest market in Europe**. The increasing popularity of these plant-based products suggest that consumers are comfortable with the current denomination system. The importance of plant-based products as a growing share of the market is also represented in conventional companies entering the vegan space. For example, [Danone closed one of its main dairy factories and converted it into a space for its Alpro division to develop vegan alternatives](#), [Herta launched Herta ‘Le Bon Vegetal’ to produce vegetarian and vegan products](#).
- In addition, **French multinational retailers have demonstrated their disagreement with this Decree**. Carrefour announced [the launch of a new coalition](#) involving, Unilever, Danone, Bel, Savencia, Andros, and Bonduelle. This coalition aims to democratise plant-based products and make them more accessible and available. This

coalition depicts the sentiment that French companies with plant-based products in their portfolios will be competitively disadvantaged by this Decree, burdening startups and small businesses especially. Subsequently, the French plant-based food-tech company Umiami just [announced its new headquarters in the US](#). Therefore, bringing its \$107 million of investments it has received over three years across the Atlantic. If this Decree goes ahead, then **more French companies could be inclined to move their operations to a jurisdiction with a more desirable regulatory framework.**

- Furthermore, investments in the French plant-based sector could prove futile if this Decree hampers growth and puts the same companies at a disadvantage. **The French government has already invested considerably into this sector**, for example [8.3 million euros](#) was allocated towards plant-based food innovation this year.

### 3) The Decree is not in the interest of French consumers

- As stated above, the French plant-based market is quite substantial, valuing at [€425.7 million sector](#), making it the fifth largest market in Europe. It is evident that **consumers are well-acquainted with and comfortable with current plant-based labelling practices.** Nonetheless, Marc Fesneau, Minister of Agriculture and Food Sovereignty, asserts that this Decree will put an end to misleading claims, by using names relating to meat products for foodstuffs that do not contain them. He also raises concerns about transparency, pointing towards a discrepancy between expectation of consumers and producers.
- To date, **there is no robust evidence supporting the notion that animal protein terminology used for plant-based proteins causes consumer confusion.** Changing labels on existing and future products is unlikely to improve consumer awareness. In fact, [research](#) where participants answered questions about various plant-based meat and dairy products (including whether they believed these foods were made from animals/animal products, how well they could imagine what the products taste like, and whether they believed the products could be used for various purposes) showed that “consumers are no more likely to think that plant-based products come from an animal if the product’s name incorporates words traditionally associated with animal products than if it does not”. More notably, this research concluded that **“omitting words that are traditionally associated with animal products from the names of plant-based products actually causes consumers to be significantly more confused about the taste and uses of these products”**. Together, the findings imply that legislation prohibiting companies from using words like “beef” and “butter” on their labels does not advance the government’s interest in preventing consumer confusion.” Furthermore, [a Swiss court](#) ruled that denominations such as “chicken”, “pork” and other “meaty” product terms and labels used by plant-based food manufacturers are not deceptive to consumers. **These findings suggest that legislation prohibiting the use of terms linked to animal proteins for plant-based products does not serve the government’s goal of preventing consumer confusion.**
- This Decree not only lacks scientific basis, but it also fails to account for the evolution and the development of consumer perceptions over the last few decades. It solidifies outdated regulations on product naming which are disconnected from the current market landscape.

- Additionally, the EU’s European Consumer Organisation’s (BEUC) [study](#) reported that most consumers (42.4%) believe that the use of ‘meaty’ names (e.g. veggie ‘burgers’ or ‘sausages’) should be permitted provided the products are clearly labelled as vegetarian/vegan. Moreover, the study proposes that “The use of ‘meaty’ names on plant-based products makes it easier for consumers to know how to integrate these products within a meal, and as such should not be banned.” Moreover, another [study](#) found that **one in four French consumers incorporate plant-based meat into their diet on a monthly basis**. The belief that meat consumption should be reduced led these consumers to opt for plant-based meat alternatives. These consumers are looking to replace their animal-based protein with a plant-based alternative and are aware some plant-based options look to mimic animal meat. In such instances, the use of meat-related labels serves as a convenient and informative signal for consumers to understand what the product is, what it looks to mimic and how it can be used in recipes or meals. **Restricting these labels may hinder consumer ability to transition to healthier, more sustainable options.**

#### 4) The Decree is not in line with France’s National Goals

- **Plant-based proteins effectively address the environmental and human health issues associated with intensive livestock production.** These objectives contribute to those of the European Green Deal and the EU Farm-to-Fork Strategy, which states that it is necessary to move “[to a more plant-based diet with less red and processed meat and with more fruits and vegetables which will reduce not only risks of life-threatening diseases, but also the environmental impact of the food system](#)”. Compared to processed animal-based products, [plant-based products offer a healthier option](#) to consumers in terms of [saturated fat, cholesterol, fibre, and a range of other nutrients](#). [The surge in obesity and cardiovascular disease in France has been linked to the rising consumption of high-calorie, low-nutrient foods containing excessive levels of saturated fats and cholesterol, as are often found in animal products](#). Given the increasing incidence of health issues such as high blood pressure, cardiovascular disease, diabetes, and obesity in France, it is important for improving public health to allow and encourage consumption of healthier, plant-based options. Evidence shows that [consumers are more willing to try plant-based products if they contain familiar meaty terms](#), so changes in denominations would undermine efforts to shift towards healthier, more sustainable choices. Given current grain shortages in Europe, it is also imperative to encourage a shift towards greater direct human consumption of crops through plant-based products for food and nutrition security. In Europe at present, [62% of cereal grains go to animal feed compared to only 23% feeding people directly](#).
- Various expert studies have recommended that **alternative proteins should be supported by governments in line with achieving international climate and nature goals, including the Paris Agreement**. Plant-based meat production emits up to [90% fewer greenhouse gas emissions and uses up to 99% less land](#) than conventional meat. Diversifying the food system into non-animal-based protein production also reduces reliance on antibiotics, lowering the incidence of antimicrobial resistance, and minimises the risk of emerging zoonotic diseases. The UK Government-led [Agriculture Breakthrough](#), supported by the COP28 UAE Presidency, highlights the need for international governments to support research, development

and deployment of alternative proteins to address the challenges of food insecurity, climate change and environmental degradation. The [IPCC special report on land use and climate change](#) also describes a shift towards more plant-based diets as a key opportunity to reduce emissions.

*The Jeremy Collier Foundation is a philanthropic NGO addressing the animal welfare, environmental and human health issues caused by factory farming through strategic grant-making and the Farm Animal Investment Risk & Return (FAIRR) Initiative. FAIRR is the world's fastest growing investor network focusing on ESG risks and opportunities across the global food system, representing \$70 trillion in AUM. The Foundation also founded the Collier Animal Law Forum (CALF), a flagship database of international laws and policies that impact farmed animals for policymakers, researchers, and advocates working towards a more sustainable global food system.*