

CEEREAL Statement on France's TRIS notification 2023/0601 regarding Nutri-Score

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CEEREAL represents the European breakfast cereal and oat milling industry and consists of 12 member companies and 7 national associations from 7 countries. We bring together international brands as well as family-owned businesses of all sizes. Our members provide consumers with enjoyable, safe, nutritious, affordable, and sustainable breakfast cereals, which are valued by all people.

The breakfast cereal industry has been at the forefront of transparency regarding the nutritional content of their products, often being early adopters of (trans-) national nutritional labelling schemes, such as Nutri-Score. In France, for example, according to the latest report of L'Observatoire de l'Alimentation (Oqali)¹, the breakfast cereal category has consistently increased and is now leading regarding the market share of brands applying Nutri-Score by volume of sales (98% market share in 2022).

Several of our members have also implemented Nutri-Score in other countries officially engaged in Nutri-Score (COEN). This underlines our members' commitment to providing consumers with consistent and comparable information about their products and their continued effort to raise the bar, yet also the need for a consistent implementation of Nutri-Score across the COEN.

The publication of the update of the Nutri-Score algorithm for beverages in April 2023² brought up several questions regarding the operationalisation of the Nutri-Score label and we are closely following developments, including, but not only, the non-consistent interpretation of the transition period for the implementation of the new Nutri-Score algorithm and the general lack of transparency regarding the governance of Nutri-Score. More recently, we took note of the TRIS notification 2023/0601 by France on the "decree laying down a complementary form of presentation of the nutritional declaration recommended by the State".

With this statement, we would like to take the opportunity to reiterate our concerns previously shared with you and explain why we believe that the French TRIS notification could negatively impact the EU single market.

1. The transition period is not long enough to ensure a smooth, consumer-friendly, and cost-effective transition to the new algorithm.

We call for an orderly and proportionate transition period of at least three years or more for industry to phase out old labels and to adjust to the new labelling requirements in order to avoid a succession of costly changes, unnecessary waste, and to ensure a consistent and aligned implementation across all COEN markets.

¹ Observatoire de l'alimentation (2022). *Suivi du Nutri-Score par l'Oqali, Bilan annuel, Edition 2022*. https://www.oqali.fr/media/2023/04/OQALI-2022_Suivi-du-Nutri-Score.pdf. Accessed 7 July 2023.

² Santé Publique France (2023). *Update of the Nutri-Score algorithm for beverages. Second update report from the Scientific Committee of the Nutri-Score V2-2023*. <https://www.santepubliquefrance.fr/determinants-de-sante/nutrition-et-activite-physique/documents/rapport-synthese/update-of-the-nutri-score-algorithm-for-beverages.-second-update-report-from-the-scientific-committee-of-the-nutri-score-v2-2023> 24.4.23. Accessed 7 July 2023.

2. The lack of alignment between COEN regarding the transition time leaves companies in a state of uncertainty.

We call for a harmonisation of the transition period among the COEN to avoid further fragmentation of the single market. Right now, we are in a situation where the Netherlands, for example, have already announced that the revised algorithm applies as of the 1st of July 2024 without a transition period. Belgium allows companies to adapt their products until end of 2025 if they bear the Nutri-Score before the end of 2023. In Germany, only products that have been produced and labelled until end of 2023 can be sold until the end of 2025. France considers various factors that could impact the actual transition period distinguishing between products manufactured, products placed on the market and products newly placed on the market - but remains open for dialogue with the concerned stakeholders. This leaves companies in a situation of uncertainty for their planning and operations. We strongly believe the COEN would benefit from a more robust, centralised governance structure which sets out the practical execution guidelines for its member countries and acts as the sole point of contact for Nutri-Score adopting companies.

3. The roll-out of the new algorithm does not align with on-going EU discussions regarding a harmonised EU front-of-pack labelling scheme.

In addition to the lack of coordination among the COEN, there also seems to be no coordination with the European Commission with regards to their plans to roll out a mandatory, harmonised front-of-pack labelling scheme. In addition, there is no consistent approach within the EU towards Nutri-Score despite its voluntary character. In fact, Italy and Romania have banned Nutri-Score from their countries and markets.

While these trade barriers to using Nutri-Score across the EU's single market persist, we call on to the COEN to review the strict scope of application (Art. 6.1.1 of the Conditions of Use), which requires using the logo on all the categories marketed under the committed (sub-) brand, and to allow for more flexibility within and across categories – and optional when a pack is destined for multiple countries including those not in the COEN. Flexibility of this nature would allow manufacturers to adopt and display Nutri-Score across product mixes with multiple and various countries of sale.

4. So far, consumers have not been prepared to understand the upcoming changes of the Nutri-Score.

From the beginning, Nutri-Score has positioned itself as a tool to help consumers make more informed decisions in a given product category and guide them towards healthier and more balanced diets. We therefore regret that, with the new algorithm, the COEN no longer allow for a proper discrimination within the breakfast cereal category. By taking away the possibility for consumers to visually differentiate among products, the above objective could be jeopardised.

At the same time, because such a distinction within a category is no longer possible, we understand that some countries experiment with new institutional campaign formats that target specific categories. For example, additional information is provided on products that achieve a score A or B, such as “too rich in...” or about the suitability of products for children. Such experimental campaigns raise the following concerns:

- They can add to or cause consumer confusion by delivering messages that do not explain the reasons for changing the score, i.e., that it is due to a change in the algorithm and not a change in product composition.
- They do not allow for sufficient differentiation possibilities within a category and thereby resulting in the perceived need to provide additional information outside the Nutri-Score label.
- They go against the principles of a holistic approach to calculating the nutritional value of products, namely, to take into account both “positive” and “negative” elements within a product.
- They ultimately lead to or further reinforce existing stigmatisation of certain categories or products as a consequence of not being able to communicate the algorithm changes to consumers via the Nutri-Score itself.

Without communication and information campaigns to prepare citizens about the revised Nutri-Score, we are at risk of leaving consumers behind with the transition. We firmly believe this responsibility lies with the COEN, as the joint owners of the Nutri-Score label and therefore call for concrete and objective communication plans to be developed jointly. We are afraid that a lack of communication could negatively impact people’s trust in operators within the food and drink sector. Furthermore, we recommend that the updated algorithm be validated through consumer behaviour within a real-life setting following an appropriate exposure to an educational campaign about the changes.

5. Innovation and renovation efforts will be less visible to consumers with the new algorithm.

One of the key effects and incentives of Nutri-Score was to drive product innovation and renovation, as these efforts would be reflected on the front-of-pack. This benefited consumers as they were informed of the nutritional differences between products of a same category and able to make informed choices. We therefore regret the lack of better discrimination within the breakfast cereal category resulting from the new algorithm and thresholds. This will make innovation and renovation efforts less visible on front-of-pack and limit consumers’ capacity to differentiate within a product category. By applying the new algorithm, most breakfast cereal products would gravitate towards similar scores, preventing consumers from differentiating between them.

Breakfast cereal manufacturers have made considerable investments to further improve the nutritional value of their products, and they are committed to further raise the bar. From 2015 to 2020 alone, they have decreased sugar by 10.2%, and increased the whole grain and fibre content of their products by 17.2% and 8.9%, respectively³. In addition, manufacturers have made commitments at national levels that have either already been achieved or are on track of doing so (see Table 1).

However, for these investments to pay off and to further incentivise reformulation and renovation efforts, breakfast cereal manufacturers need to be able to communicate these achievements directly and identifiably to the consumers front-of-pack.

6. COEN should allow for a sufficiently long implementation period between revisions so that companies can adapt packaging labels and innovation plans, and for consumers to be made aware of the upcoming changes and ensure a more inclusive and transparent process for consulting industry in case of adaptations or developments.

³ On a sales-weighted basis for recipes constituting 85% of volume sales in the EU and UK for CEEREAL members in 2015 and 2020.

Improved governance should lead to meaningful consultation of all involved parties at each step of the process in the future. Other well-known front-of-pack nutritional labelling schemes, such as the Health Star Rating, collaborate more openly with industry, ensuring stakeholders' buy-in to the scheme and during revision periods.

The current way of working of the COEN is on its way to becoming a significant barrier to new adopters of Nutri-Score and to fostering the scepticism towards front-of-pack labelling schemes in the EU. We regret the lack of transparent governance and collaborative structure within the COEN that would support and foster the voluntary implementation of Nutri-Score and therefore strongly recommend that the COEN adopt a clear governance structure with transparent mechanisms to debate, consult and decide.

7. The uncoordinated implementation of a French law implementing the new Nutri-Score will lead to and cement the different implementation and transition periods across the COEN and further fragment the EU single market.

Even though the adoption of Nutri-Score remains voluntary and limited to the COEN, its uncoordinated implementation not only fragments the COEN markets but also the EU's single market leading to unnecessary barriers of trade for companies. In addition, it will make it even harder to achieve a potential harmonised front-of-pack labelling system across the EU. We therefore call on national governments and the European Commission to ensure and uphold the free circulation of products across EU borders and to make sure that harmonising labelling across the EU remains possible.

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