

10 October 2023

Freshfel Europe's response to TRIS notification nr.2023/0442/BE on 'draft Decree of the Flemish Government amending the Decree of the Flemish Government laying down general and sectoral provisions on environmental hygiene, the VLAREBO Decree, VLAREL and the VLAREMA Decree'.

Freshfel Europe, the EU representative Association for the fresh fruit and vegetable sector, with members from across the entire supply chain, is responding to TRIS Notification Number 2023/0442/BE on 'draft Decree of the Flemish Government amending the Decree of the Flemish Government laying down general and sectoral provisions on environmental hygiene, the VLAREBO Decree, VLAREL and the VLAREMA Decree' hereafter 'draft Royal Decree'.

Of special concern is article 67, which replaces article 5.3.14.1 of VLAREMA, and states:

"It is prohibited to apply stickers directly to fruit and vegetables unless the stickers are industrially compostable or home compostable."

Freshfel Europe welcomes the new article, which allows for industrial compostability. This is an important element considering there is currently no home compostable sticker available at large scale to the sector, i.e. certified home compostable face stock, adhesive and ink as well as the full label composition, and that this research is still ongoing. Furthermore, it is in line with the recommendations of the European Commission study on 'Relevance of compostable plastic products and packaging in a circular economy' (2020) and European Commission Communication on EU policy framework on biobased, biodegradable and compostable plastics (2022), which both recommend the application of industrially compostable plastics for fruit and vegetable labels but do not recommend the application of home compostable labels for fruit and vegetables.

However, it is important to consider the place of this proposal in the European context to avoid any trade disruptions or barriers. The proposed article 67 has raised concerns because of its pre-emptive nature, as it precedes the probable implementation period of a similar EU Regulation, meaning it risks disrupting the EU Single Market and creating a barrier to intra-EU fresh produce trade.

The Proposal for a Regulation on Packaging and Packaging Waste (the PPWR), i.e. the revision of Directive 94/62/EC, is currently being discussed in the EU institutions. The proposal includes a provision specifying that fruit and vegetable stickers must be compostable in industrially controlled conditions (Article 8.1.). The PPWR is foreseen to be adopted in spring 2024 and includes a transition period of 24 months for article 8, whereas the Flemish decree would enter into force upon publication which is expected already over winter 2023/2024.

This means that Flanders would have to enforce this before other Member States, causing disparity with other EU markets, and creating a disadvantaged position for Flemish economic operators. Furthermore, seeing that the PPWR is still being processed in the EU institutions, it is still subject to change and the outcome may differ from the Flemish proposal. Freshfel Europe reiterates the pre-emptive nature of Article 67 of the draft Royal Decree to PPWR, therefore infringing on Article 6.3. of Directive (EU) 2015/1535 on TRIS.

In addition, Freshfel Europe strongly recommends the inclusion of a transition period, seeing as stickers are purchased in advance of product seasons. Already purchased stickers for the coming season will generate large amounts of unnecessary packaging waste if not used, an unintentional consequence of the measure. To better align with the European Green Deal and the common wish for greater environmental and economic sustainability, this should be avoided, and, accordingly, appropriate transition measures should be included.

Freshfel Europe asserts that the Flemish article 67 on fruits and vegetable stickers should be withdrawn or postponed awaiting the outcome of the revision of EU Directive 94/62/EC. Freshfel Europe reiterates the necessity of ensuring European harmonisation of legislation to prevent waste of food and materials, but also to facilitate the uninterrupted flow of fresh produce, which is perishable, on the Single Market.

Thank you for considering Freshfel Europe's position. We remain at your disposal for any further questions.