

## EU Specialty Food Ingredients' Comments on TRIS notification 2023/0601/FR

EU Specialty Food Ingredients appreciates the opportunity to comment via the TRIS procedure and calls on the European Commission and the Member States to submit detailed opinions on the notification TRIS 2023/0601/FR<sup>1</sup>, because:

- Nutri-Score is based on article 35 of Regulation (EU) No 1169/2011 related to a complementary form of expression and presentation of nutritional declaration,
- According to article 30 of Regulation (EU) No 1169/2011, energy value, fat, carbohydrate, sugars, proteins, salt, mono-unsaturates, polyunsaturates, polyols, starch, fibre, vitamins, and minerals are considered in the calculation of the nutritional value,
- Sweeteners are taken into account for the nutritional score calculation leading to Nutri-Score logo,
- Sweeteners and food additives are not listed in Regulation (EU) No 1169/2011 as criteria for nutritional declaration.

Therefore, Nutri-Score should not take into account sweeteners and any food additive in its algorithm for nutritional score calculation.

- The updated algorithm modifies the fibres nutritional score calculation: the minimum percentage of fibres for a positive score is now 3%, compared with 0.9% in the original algorithm.
- The aim of the updated algorithm, applied to all foods, is to value whole grain products over refined products.
- While the new algorithm improves the nutritional score of products containing whole grain cereals, it lowers the nutritional score of other foods containing fibres.

Therefore, Nutri-Score should value all foods containing a minimum percentage of fibres. The values of the original algorithm for nutritional score calculation for fibres should be retained for foods other than cereal products.

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<sup>1</sup> <https://technical-regulation-information-system.ec.europa.eu/en/notification/25002> (End of standstill: 24 January 2024)

## Background:

### **Regulation (EU) No 1169/2011 on the provision of food information to consumers<sup>2</sup>**

Article 35 “Additional forms of expression and presentation”

*“In addition to the forms of expression ... referred to in Article 30(1) to (5) may be given by other forms of expression and/or presented using graphical forms or symbols in addition to words or numbers”*

Article 30:

*“1. The mandatory nutrition declaration shall include the following: a) energy value, and b) the amount of fat saturates, carbohydrate, sugars, protein and salt”.*

*“2. The content of the mandatory nutrition declaration referred to in paragraph 1 may be supplemented with an indication of the amounts of one or more of the following: (a) mono-unsaturates; (b) polyunsaturates; (c) polyols; (d) starch; (e) fibre; (f) any of the vitamins or minerals listed in point 1 of Part A of Annex XIII, and present in significant amounts as defined in point 2 of Part A of Annex XIII”*

*“3. Where the labelling of a prepacked food provides the mandatory nutrition declaration referred to in paragraph 1, the following information may be repeated thereon: (a) the energy value; or (b) the energy value together with the amounts of fat, saturates, sugars, and salt.”*

Referring to article 35, France adopted Nutri-Score as a complementary form of presentation of nutritional declaration. It is based on a scale of 5 colours ranging from dark green through yellow to dark orange. The colours are associated with letters ranging from A to E to optimize its accessibility and understanding by the consumer.

The nutritional score uses the nutrients and ingredients within the product that have a significant impact on health to derive an estimate of the nutritional value of the product ranging from higher nutritional value (dark green colour and letter A) for the lowest scores to lower nutritional value for the highest scores (yellow to dark orange colour and letter E).

### **Fibre consumption**

For several years, fibre consumption has been insufficient for a large majority of the European population. “In 2010, average intakes of dietary fibres in national dietary survey across European adult populations ranged from 15.7 to 29.5 g/day and were, in all surveys but one, below the adequate intake of 25 g/day. A more recent compilation of national intake data compiled by the European Commission<sup>3</sup> is mostly in line with this observation.”<sup>4</sup>

Fibres occurs naturally in fruit, vegetables, pulses, and wholegrain cereals. To meet consumption recommendations, fibres can be added in supplementation to foods.

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<sup>2</sup> <http://data.europa.eu/eli/reg/2011/1169/2018-01-01>

<sup>3</sup> [https://knowledge4policy.ec.europa.eu/health-promotion-knowledge-gateway/dietary-fibre-overview-3\\_en](https://knowledge4policy.ec.europa.eu/health-promotion-knowledge-gateway/dietary-fibre-overview-3_en)

<sup>4</sup> Scientific advice related to nutrient profiling for the development of harmonised mandatory front-of-pack nutrition labelling and the setting of nutrient profiles for restricting nutrition and health claims on foods published on 19 April 2022 <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2022.7259>

### Notification TRIS 2023/0601/FR<sup>5</sup>

The draft order: “Decree laying down a complementary form of presentation of the nutritional declaration recommended by the State”

The notified draft order presents new specifications for the calculation of the foodstuff’s nutritional score.

- In beverages the presence of sweeteners is considered with a negative score. This leads to a high Nutri-Score (at least a yellow-orange colour and a letter C).

*“1-2-2- Beverages: The scores for beverages are calculated using the allocation tables (Tables 5 and 6). In this particular case, the negative component N also includes points for the presence of sweeteners”*

Sweeteners taken into account in the calculation of the nutrition score are: acesulfame K, aspartame, cyclamates, saccharin, sucralose, thaumatin, neohesperidine DC, steviol glycosides from stevia, neotame, salt of aspartame-acesulfame, advantame.

- For fibres, the minimum percentage to obtain a positive nutritional score is 3 g/ 100g whereas it was 0.9 g/100g in the original algorithm.

The change is explained by the Scientific Committee of Nutri-Score in its report in June 2022.

The Committee objective is to improve discrimination between whole grain products, rich in fibres and refined products, especially for bread and to improve consistency with food based dietary guidelines. With the updated algorithm, proportion of whole grain products graded A or B is higher than for refined products.

### Comments

- **The draft order is contrary of article 35 of Regulation (EU) No 1169/2011 related on additional forms of expression and presentation for the nutritional declaration.**

Indeed, in Nutri-Score, sweeteners are taken into account in the calculation of the nutritional score whereas they are not listed as mandatory or supplemented criteria for this.

According article 30 of Regulation (EU) No 1169/2011, only energy value, the amount of fat, saturated fats, carbohydrate, sugars, protein, salt, mono-unsaturates, polysaturates, polyols, starch, fibre, vitamins and minerals can be considered in the calculation of the nutritional value.

➔ The draft order is in not on line with article 35 of EU Regulation No 1169/2011 provisions related on a complementary form of expression of nutritional value.

➔ Nutri-Score should not take into account the presence of sweeteners and any other food additive.

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<sup>5</sup> <https://technical-regulation-information-system.ec.europa.eu/en/notification/25002>

- **A scientific approach that does not meet the standard academic criteria, nor the risk assessment principles established by the European Food Safety Authority.**

In the case of sweeteners, the modification of the algorithm for beverages is based on studies whose Scientific Committee itself acknowledges the limits<sup>6</sup>... but which it uses to call into question the safety of these ingredients. This review of the scientific literature does not comply with the rules applicable in the academic world, which aim to evaluate all the data critically.

The Scientific Committee report questions the safety of sweeteners, therefore pretending being an Authority responsible for the safety assessment of sweeteners, which it is not. France should follow the opinion of the European Food Safety Authority (EFSA) on the risk assessment of sweeteners, concluding that the current uses are safe for consumers. Otherwise, France is putting into question the work of EFSA on sweeteners.

- **The updated algorithm degrades the nutritional score of fibre-containing foods other than whole grain products.**

Updated algorithm improves nutritional score for whole grains products.

With the updated algorithm, due to a lower minimum percentage to obtain a positive nutritional score, other products containing fibres see their score drop.

- ➔ Nutri-Score should value all foods containing a minimum percentage of fibres.
- ➔ The values of the original algorithm for nutritional score calculation for fibres should be retained for foods other than cereal products.

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<sup>6</sup> <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>