



20th november 2023

RE: TRIS 2023/0510/FR: French draft “Decree on the use of certain designations used to describe foods containing vegetable proteins”

SELMA (Sustainable European Livestock and Meat Association) welcomes the French initiative to protect meat names in legislation. The use of names specific to meat to describe, market or promote foodstuffs containing plant proteins is, in itself, likely to mislead consumers. Prohibiting the use of names considered inherently misleading for consumers is therefore a very good initiative, which deserves to be extended to the European Union.

In fact, vegetable protein-based products fall into the category of so-called "ultra-processed" products, as defined by Carlos Monteiro, the nutrition researcher behind the NOVA classification, which is the reference classification for assessing a product's degree of processing. According to this researcher, a product is "ultra-processed" if it contains more than four or five ingredients, including additives (colorants, preservatives, thickeners, etc.).

However, the growing share of these products in our diet raises a number of concerns. For several years now, studies have been multiplying to establish the deleterious effects of this type of product on health. In France, researchers from INSERM and INRA recently demonstrated an increased risk of cardiovascular disease among consumers of this type of food¹. A previous study had already established a causal link between the consumption of ultra-processed products and the development of cancer². In view of this risk, the French High Council for Public Health called for "a 20% reduction in the consumption of these products between 2018 and 2021³, and the "manger-bouger.fr" website urges consumers to opt for other, less processed foods such as meat⁴.

In order to avoid this mistrust, some companies designing this type of preparation use every possible means to evoke meat, which remains a raw, natural product with no other ingredients added.

Brands marketing plant-based protein products and using meat names seek to imitate all the physical characteristics of meat: the shape, texture and color of products are designed to create, in the mind of the average consumer, an amalgam with meat and above all with its qualities.

¹ British Medical Journal, 29 may 2019, Ultra-processed food intake and risk of cardiovascular disease: prospective cohort study (NutriNet-Santé).

² British Medical Journal, 14 february 2018, Consumption of ultra-processed foods and cancer risk: results from NutriNet-Santé & prospective cohort.

³ Opinion of the French High Council for Public Health of February 9, 2018 on quantified public health objectives for public health nutrition policy (PNNS) 2018-2021.

⁴ <https://www.mangerbouger.fr/Les-recommandations/Les-questions-qu-on-se-pose-tous/Comment-limiter-les-boissons-sucrees-les-aliments-gras-sucrees-sales-et-ultra-transformes/Les-aliments-ultra-transformes-AUT-comment-les-reperer-et-pourquoi-moins-en-manger>



Furthermore, whether in stores or on the internet, plant-based protein products are marketed in the butchery section of certain chains. However, the fact that retailers themselves associate these products with butchery clearly demonstrates the level of confusion deliberately generated by the marketing of these brands.

The aim of these brands is to make consumers believe that these products are completely comparable to and substitutable for meat in terms of taste, nutrition and health, when in fact they are not.

However, failure by a food operator to comply with the fair information requirements of Regulation (EU) no. 1169/2011 on the provision of food information to consumers constitutes an unfair commercial practice. As stated in recital (4) of this regulation, "one of the general principles of food law is to provide consumers with a basis for making an informed choice about the foodstuffs they consume, and to prevent any practice which could mislead the consumer".

Thus, "fair information" is the first of the fundamental requirements laid down by Regulation (EU) n°1169/2011. Article 7 §1 specifically states that "*Food information shall not be misleading, particularly:*

(a) as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of

manufacture or production;

(b) by attributing to the food effects or properties which it does not possess;"

Article 7 §4 specifies that this duty of fairness shall also apply to "*the presentation of foods, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed.*"

In addition, Article 36 of the Regulation also requires that optional information on foodstuffs "*shall not mislead consumers, as referred to in Article 7*", and shall not be "*ambiguous or confusing to consumers*".

Thus, a commercial practice must be considered unfair and misleading if it contains false information, and is therefore deceptive, or if, in any way whatsoever, including the general presentation of a product, it misleads or is likely to mislead the average consumer (in particular as to its nature or main characteristics) by leading or being likely to lead him to take a commercial decision that he would not have taken otherwise.

Furthermore, the use of meat names to describe, market or promote foodstuffs containing plant proteins cannot be considered descriptive of the product's characteristics, as provided for in Article 17 of Regulation (EU) no. 1169/2011, in the absence of harmonized legal and usual names. According to the definition set out in Article 2 of the same regulation, a descriptive name "*means a name providing a description of the food, and if necessary of its use, which is sufficiently clear to enable consumers to know its true nature and distinguish it from other products with which it might be confused*" In this case, however, the opposite is true.

As a result, the decree implementing the French law strengthens consumers protection and gives plant-based protein products their rightful place in a different market from meat.