

The Consumer Voice in Europe

WHY MOVING ESSENTIAL PRODUCT INFORMATION ONLINE IS A NO-GO



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Why moving essential product information online is a no-go



Information about products and their characteristics constitutes an essential safeguard of consumer health, rights, and interests. There is growing interest, especially among some industry groups, in moving this information online. Websites, apps, and social networks now increasingly compete with traditional product labels, posters, and leaflets to inform consumers about the content, use and characteristic of consumer goods.

BEUC – The European Consumer Organisation insists that EU policymakers

- **Do not fall for the buzz about digital information tools;** digital labelling is a flawed concept that threatens to undermine, rather than enable, informed consumer choice.
- **Keep information essential to consumer health, rights, and interests on product labels;** this will ensure access to information for all consumers both at the point of sale as well as after purchase – without the use of additional devices or internet connectivity.

While digital information tools have undeniable potential to improve both the availability of product information and the capacity to effectively reach consumers, they also entail major challenges – and risks – for consumers' access to essential information. Therefore, they must not replace established means of communicating product information to consumers, such as on-pack labels or paper leaflets. This also applies where new mandatory disclosure obligations for essential product information are under consideration.

A shift towards digital labelling as an *alternative* to on-product labels in fact threatens to undermine an essential safeguard of consumer health, rights, and interests – that is, easy, immediate access to information provided 'with' or 'on' a product. However, as outlined below, smartphone apps, QR codes and websites could play a *complementary* role to enable informed consumer choice.

Product information and informed consumer choice

EU consumer policy is based on the fundamental insight that empowered and informed consumers can more easily change their lifestyle and consumption patterns contributing to the improvement of their health, more sustainable behaviour and a low carbon economy.¹ Clear, reliable, and *readily accessible* information about products such as compositional, nutritional, economic, environmental, social, or ethical aspects is crucial to enable informed consumer choice. Product information requirements likewise form a core pillar of EU health protection policies: pictograms and instructions of use are essential to ensure the safe and

¹ See e.g. European Commission. [EU Consumer Policy strategy 2007-2013 - Empowering consumers, enhancing their welfare, effectively protecting them](#). March 2007.

correct use of many consumer products, such as paints, detergents, and cosmetics. Product information thus constitutes an important safeguard² of consumer health, rights, and interests. The European Court of Justice for example recently found³ with

Why label on product?

Several EU laws require information to be displayed on products, their packaging or an accompanying paper leaflet. For example:

- ✓ EU cosmetics legislation recognises that “[t]ransparency is needed regarding the ingredients used in cosmetic products. Such transparency should be achieved by indication of the ingredients used in a cosmetic product on its packaging. Where for practical reasons it is impossible to indicate the ingredients on the packaging, such information should be enclosed so that the consumer has access to this information.”¹
- ✓ EU food legislation provides that “mandatory food information shall be available and shall be easily accessible” to consumers and that in the case of prepacked food, it “shall appear directly on the package or on a label attached thereto.”² The provision of mandatory food information by means other than the package or label (incl. ‘modern technology tools’) is only considered as a possibility, subject to it ensuring the same level of information (incl. in terms of consumer understanding and easy access to these means).

These examples illustrate the legislator’s recognition that to enable informed consumer choice – and safe use after a product has been purchased – essential information must be readily available with the product in the form on-pack labels or in limited situations through alternative means, such as attached paper leaflets.

¹ Regulation (EC) No 1223/2009 on cosmetic products

² Regulation (EU) No 1169/2011 — food information to consumers

respect to cosmetic products that “supporting documentation may be used only where it is impossible ‘for practical reasons’ to place that information on the label. Such impossibility refers to situations where it is impossible in practice, on account of the nature and the actual presentation of the product, to place certain information on the label [...]. The cost of labelling [...] cannot in any case be regarded as justifying incomplete labelling of the product on its container and its packaging. The Court finds that such a requirement ensures a high level of protection for consumers. Protection of health cannot in fact be fully guaranteed if consumers are not in a position to familiarise themselves fully with, and to understand, in particular, the information concerning the function of the cosmetic product concerned and the particular precautions to be observed when using it.”

Essential information must stay on product

Despite the buzz about digital information tools, no credible model has been presented on how they could work in practice. There are clear risks that a shift towards digital labelling as an alternative to established channels of product information could undermine, rather than enable, informed consumer choice, e.g. by making access to product information more time-consuming and burdensome or by outright excluding some consumers from information essential to their health and well-being.

Given the open questions on how to guarantee unrestricted and secure access for *all* consumers (see below), digital information tools can under no circumstance replace

² EU legislation usually specify and standardize how this information must be presented, e.g. through indelible, easily legible, and visible lettering.

³ Court of Justice of the European Union. [Judgment in Case C-667/19](#). Press release. December 2020.

established means of communicating mandatory product information to consumers, such as on-pack labels or paper leaflets.

This is the case for existing product information obligations; but it should also apply where new mandatory disclosure obligations for essential product information are under consideration, such as e.g. labelling of fragrance allergens in cosmetic products⁴ or alcohol labelling.⁵ Indeed, information necessary to protect consumers' rights, health, interests, and well-being must always be provided on or with the product.

The information needs of consumers change over time. For example, unlike the previous Directive 2000/13/EC on the labelling of foodstuffs, the more recent Food Information to Consumers Regulation 1169/2011 recognises consumers' right to make informed food choices, including in relation "to health, economic, environmental, social and ethical considerations". Today, most consumers (57%) want sustainability information to be compulsory on food labels.⁶ A decision to allow certain product information to be provided through digital means must therefore not preclude future obligations to provide it on or with the product. As such, it is necessary to regularly review possible digital solutions to determine the most appropriate means of communicating product information to consumers, taking their evolving information needs into account.

Digital labels: not an alternative for mandatory product information

While digital tools have undeniable potential to improve both the availability of product information and the capacity to effectively reach consumers, they also entail major challenges – and risks – for consumers' access to essential information. In this section, we provide arguments refuting those peddling digital labelling as a means to empower and inform consumers.

The risk of excluding consumers

Outright replacing established means of product information, e.g. paper leaflets, with digital solutions risks excluding a significant part of consumers from accessing information vital to protect their rights, health, and well-being. Internet connectivity and digital skills are fundamental preconditions. At present, these preconditions are however not met:

- **Connectivity:** Despite improvements over the last years, internet access and broadband connections are still highly fragmented across Europe. In 2018, Eurostat for example found⁷ that 11% of the EU population have never used the internet. Moreover, in 2018, 15% of rural households did not have access to the internet compared to 9% in cities and 11% in towns and suburbs.⁸ The urban-rural divide is particularly strong in Greece, Portugal, Bulgaria, and Romania, each of which had a lower overall level of internet access than the EU-28 average.
- **Connected devices:** Smartphone ownership is less pervasive than is often believed: according to market research from 2017,⁹ 77.3% of Danish consumers own a smartphone, the highest in the world. That still leaves one in five Danish consumers without a connected device. Smartphone ownership in other European countries is

⁴ See BEUC. [Labelling Fragrance Allergens](#). December 2018.

⁵ See BEUC. [Position on Alcohol Industry Self-Regulatory Proposal](#). April 2018.

⁶ See BEUC. [One bite at a time – Consumers and the transition to sustainable food](#). June 2020.

⁷ Eurostat. [Digital economy and society statistics - households and individuals](#). June 2019.

⁸ Eurostat. [Digital economy and society statistics - households and individuals](#). June 2019.

⁹ Berlingske. [Danmark har flest smartphones i hele verden](#). 6 December 2017. [in Danish]

likely significantly lower.¹⁰ Practically, use of connected devices to access product information also presupposes that consumers always bring their devices to the shop, that the device is charged, that mobile subscriptions are functional, etc. – none of which should be taken for granted.

- **Digital skills:** When it comes to digital skills, remarkable differences finally still exist between young people and the older population: whereas 96% of 16-24 olds are regular internet users, according to Eurostat,¹¹ only 57% in the 55-74 age group use the internet regularly. Importantly, these figures are not reflective of a generational gap that will disappear over time: digital technologies are not static, instead requiring continuous investment in acquiring new skills. Beyond cognitive challenges, elderly people are likely to experience more difficulties with (small) smart tools because of declining dexterity. As they age, many 16-24 olds could therefore wind-up experiencing much the same problems as today's older generations.

Current proposals for how to address these concerns are not well-developed: free-of-charge calls or return text messages for example do not represent a practical solution for consumers, while an obligation for retailers to make in-shop scanning equipment devices available would still exclude consumers from the information after purchasing a product. On-product information in contrast ensures that consumers have access to information both at the point of sale as well as after purchase – without the use of additional devices or internet connectivity.

A barrier to informed consumer choice

Consumers make their purchasing decisions in a matter of seconds. Whereas product labels allow consumers to easily compare several products on the shelf, providing information exclusively via QR codes or weblinks would on the contrary, even if scanned, only permit consumers to access information for one product at a time. This would not only be more time-consuming for consumers but would also restrict their ability to make simple comparisons between products.

It is unfair and unrealistic to expect busy shoppers to spend the extra time and effort to access information via QR codes, weblinks or barcodes for each product they consider buying. Should digital information replace on-product information, digital tools – and potential connectivity issues – could significantly hamper the ability of consumers to make informed choices. In parallel, digital labelling could result in a proliferation of apps required to access information about different products which would not only be burdensome but may further serve to exclude consumers if the user-friendliness of these apps is not ensured; if a consumer has not downloaded a certain app necessary to access the information; or if the apps encounter a bug that cause them to cease functioning.

On-pack information is further essential to ensure consumer convenience and safety during a products use-phase. Easy and immediate access to pictograms or instructions of use are for example crucial to ensure the safe and correct use of many consumer products, such as paints, detergents, and cosmetics. Requiring consumers to access this information through a QR code or a weblink in an emergency situation would thus extend the time needed to take corrective action and could ultimately endanger their health, e.g. if a connected device is not at hand. In a broader perspective, digital labelling would also severely impact user experience, making the use of a product significantly more

¹⁰ According to Eurostat, for example, 69% of Europeans aged 16 to 74 used mobile devices to connect to the internet in 2018. The most common mobile devices for internet connections were mobile or smartphones, but also laptops and tablet computers. See Eurostat. [Digital economy and society statistics - households and individuals](#). June 2019.

¹¹ Eurostat. [Internet access and use statistics - households and individuals - 2016 edition](#). December 2016.

cumbersome if consumers were forced to turn to a connected device every time they would need instruction on use or other relevant information.

A potential source of consumer disinformation

Entrusting private entities to host information provided through digital means could result in higher risks that consumers are exposed to misleading, abusive or unfair commercial practices, including situations where consumers are presented with an excess of or badly organised information.¹² If product information is exclusively provided online, there is for example an increased risk that some rogue traders might be tempted to omit some mandatory information – or that they amend it after the consumer has purchased a product.



Internet advertisements omit mandatory warnings

In 2018, a joint European enforcement project found that a significant number of inspected household, construction and other chemical mixtures offered for sale on the internet lacked mandatory warning statements and safe use instructions. EU legislation requires any advertisement which allows consumers to purchase a hazardous mixture without first having sight of the label to mention the type or types of hazards indicated on the label. Of the 1,083 inspected products, 82% nonetheless failed to provide this information.

Source: ECHA. [Final report on the Forum Pilot Project on CLP focusing on control of internet sales](#). September 2018.

Requiring consumers to access product information through websites or smartphone apps could likewise allow traders to exploit such means for advertising purposes, for example by linking to commercial content hosted on other parts of the trader's website. Traders could moreover seek to embed hidden advertisement or (sometimes) misleading claims within mandatory product information hosted on their websites. Digital information tools could thus further contribute blurring the lines between factually correct information and material that by its nature is promotional.

If on-pack information were to be replaced by digital information, consumers would naturally expect that the information provided through this new channel is as reliable and accurate as the information provided offline. As such, few consumers would suspect digital consumer information, if based on EU legislation, to be biased, and they would as a result be particularly susceptible to any abusive and unfair commercial practices. The unprecedented magnitude and volume of fraudulent, misleading, and legally non-compliant offers seen during the COVID-19 pandemic¹³ illustrates the urgent need to fight online scams. Unless rigorous controls – and in some cases approval – by authorities of the information provided by traders is ensured, digital tools could therefore become a tool of consumer disinformation.

Data protection and security in question

A potential switch towards digital labelling raises significant concern for both data protection and cybersecurity. Requiring consumers to scan products or visit an operator's website could for example allow traders to collect information on the (potential) purchasing behaviour of consumers as well as other personal data (e.g. a cookie ID). Access to such data could result in both user identification and targeted advertising if compliance with the General Data Protection Regulation (GDPR) is not guaranteed.

¹² See N. Helberger. [Form matters: informing consumers effectively](#). September 2013.

¹³ See BEUC. [On the front row](#). October 2020.

If product information were provided exclusively online, potential system failures (e.g. a virus causing loss of data) or cybersecurity attacks (e.g. resulting in loss of connectivity or unauthorised modification of information) could further result in a loss of essential product information. A vulnerable information tool such as a QR code could also serve as an entry point for a malicious hacker into consumers' IT systems (e.g. smartphone, tablet). In 2016, more than 4,000 ransomware attacks occurred per day – or a 300% increase compared to 2015.¹⁴ Without an adequate security architecture, digital tools are vulnerable to data breaches which endanger consumer rights – and ultimately even their health and wellbeing.

A particular enforcement challenge

Most surveillance authorities are not equipped to deal with a shift towards digital labelling (due to a lack of expertise, capacities, staff – and a more general failure to prioritise inspections of information provide to consumers¹⁵). Unlike on-pack information, digital information is intangible so there may be no way to retrieve previous versions where a trader updates a product site. This would obviously complicate attempts to investigate non-compliance. Moreover, product characteristics change over time, and authorities would therefore need to police a plethora of different product sites.



Non-compliant digital labels

Experience to date suggests that digital information tools would present particular challenges for enforcement authorities: a joint European enforcement project of detergents for example found that almost 30% of 907 inspected detergents did not provide the obligatory website address where consumers can find a full ingredient list. Furthermore, this list of ingredients was not available at the website address mentioned on the label for 46% of the inspected products.

Source: Chemical Legislation European Enforcement Network. *EuroDeter – Final Report*. 2014.

For instance, where a cosmetics manufacturer changes product formulation, the manufacturer would need to maintain separate webpages specifying ingredient lists for both the new and the old versions of the product. As a minimum, separate sites would need to be maintained – and checked – as long as the old version is still in commerce. From a consumer perspective, however, this would still be insufficient since consumers may need to access the list of ingredients in case an allergy develops through use of the product, even after its commercialisation has been discontinued.

Digital labels are not a 'green' alternative

While digital labelling is often touted as a more sustainable alternative to traditional on-pack labels, promising to reduce packaging needs and thus packaging wastes, these claims overlook the digital sector's significant environmental footprint. In 2018, the energy consumption of data centres in the EU was thus 76.8 TWh. This is expected to rise to 98,5 TWh by 2030, a 28% increase. In relative terms, data centres within the EU accounted for 2.7% of electricity demand in 2018 and is expected to reach 3.21% by 2030 if development continues on the current trajectory.¹⁶

¹⁴ European Commission. [Impact Assessment accompanying the proposal for a Regulation on a Cybersecurity Act](#). SWD(2017)500 final. September 2017.

¹⁵ In the food area, BEUC has recently documented a disturbing decline in resources and in the overall number of official controls carried out by Member States. Food labelling in particular is one of the most neglected areas of food law enforcement. See BEUC. [Keeping food in check](#). October 2019.

¹⁶ European Commission. [Energy-efficient Cloud Computing Technologies and Policies for an Eco-friendly Cloud Market](#). November 2020.

Moving product information online would further feed this energy frenzy, unless the energy efficiency performance of the digital sector is vastly improved, as also observed in the European Green Deal. At the same time, the EU already requires that packaging volume and weight must be limited to the minimum adequate amount to maintain the necessary level of safety, hygiene, and acceptance for the packed product and for the consumer; and that packaging must be designed, produced, and commercialised in such a way as to permit its reuse or recovery, including recycling.¹⁷

Digital labels: a *complementary* enabler of informed consumer choice

Whereas digital labelling thus cannot replace established means of communicating product information to consumers, digital tools could serve an important *complementary* role, e.g. by improving legibility for visually impaired consumers or by helping to translate mandatory on-pack information to useful advice for consumers as well as by providing more detailed, relevant information.

The European Medicines Agency's (EMA) work¹⁸ on electronic product leaflets is a case in point. While not intended to replace the paper leaflet that must be provided with a medicine, EMA is developing key principles for electronic leaflets as a complementary tool to improve the readability and layout of leaflets as well as to ensure that patients have access to the most updated information, e.g. when new information on side-effects become available.

In the food area, smartphone apps, barcodes and QR-codes are increasingly popular among consumers. Digital tools might offer an opportunity to provide consumers with additional information that goes beyond mandatory requirements and/or that is more personalised – provided use of these tools do not affect the legal requirements related to essential information, including on the minimum font size for on-pack food information.

The cosmetics apps¹⁹ developed by several BEUC members offer another instructive example: these apps provide advice based on widely accepted lists of ingredients of concern, such as the EU list of potential endocrine disruptors. As such, their advice is based on the judgement of independent scientific experts and government authorities. Hence, rather than replace the mandatory ingredient list, the apps complement it, helping to translate ingredient names into meaningful recommendations for consumers.

A common feature of these examples is thus that digital tools serve to *complement* information that must already be declared; i.e. offline access for *all* consumers is guaranteed, while the digital tools help consumers make informed choices about the products they consider buying.

ENDS

¹⁷ See [Summaries of EU Legislation: Packaging and packaging waste](#).

¹⁸ EMA. [Towards electronic product information for EU medicines](#). Press release. 21 November 2019.

¹⁹ For example [Kemiluppen](#) by Forbrugerrådet TÆNK or [QuelCosmetic](#) by UFC-Que Choisir.



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