

Food Safety

Use of the voluntary “gmo free” marketing claim on food and feed

These guidelines are intended for food and feed business operators and control authorities. Evira has not been conferred legislative competence in this matter and cannot therefore issue binding regulations. The interpretations presented in these guidelines constitute the views of the authority in charge of food and feed control on how legislative regulations on food and feed should be applied. Issues pertaining to the application of legislative regulations are in the last instance settled by a court of law. Should the European Commission issue guidelines pertaining to this matter, Evira will revise these guidelines accordingly.

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PREFACE

The mandatory labelling of food products does not in all respects meet the information needs and expectations of consumers. For this reason, in addition to the mandatory labelling based on legislation, foodstuffs carry a multitude of marketing claims based on voluntary systems concerning, in particular, their origin and method of production.

Provisions on genetically modified food and feed are set out in the regulations of the European Community, and in the Common Market, products move freely across borders. The underlying principle of the legislation that regulates genetically modified food and feed is to secure the availability of information and opportunity of choice for consumers. This has been implemented by means of a mandatory obligation to provide relevant GMO information in product labelling or otherwise in connection with marketing. The consumer and user of feed can be confident that if there is no indication of genetic modification in the labelling, the food or feed is not genetically modified.

The law does not explicitly prohibit the use of voluntary marketing claims stating that gene technology has not been utilised in the production of the food or feed concerned, or that the product does not contain any genetically modified ingredients. At present, the EU has not specified any common criteria for marketing claims such as “gmo free”, “the animal has been fed with gmo free feed”, and the like. For this reason, some EU Member States have drawn up their own national guidelines for the use of “gmo free” marketing claims, and such claims are in fact already in use. In order to harmonise the practices of the Member States, EU should define common criteria binding to all Member States for voluntary “gmo free” or equivalent marketing claims. For Finnish food operators and control authorities, the Finnish Food Safety Authority Evira has considered necessary to draw up a guideline for the use of the voluntary “gmo free” marketing claim on food and feed products.

LEGISLATION

Legislation pertaining to the labelling of genetically modified food and feed:

- Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed
- Regulation (EC) No 1830/2003 of the European Parliament and of the Council concerning the traceability and labelling of genetically modified

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organisms and the traceability of food and feed products produced from genetically modified organisms

- Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers
- Food Act 23/2006
- Feed Act 86/2008
- Commission Regulation (EU) No 619/2011 laying down the methods of sampling and analysis for the official control of feed as regards presence of genetically modified material for which an authorisation procedure is pending or the authorisation of which has expired

Pursuant to Regulation (EC) No 1829/2003, only genetically modified ingredients authorised in the EU may be used in the manufacture of food or feed, and they shall be indicated in the labelling of the product. No indication is required on products that contain genetically modified ingredients in a proportion no higher than 0.9 % of the food or feed ingredients considered individually, provided that the presence of the genetically modified ingredient is adventitious or technically unavoidable (Articles 12 and 24). Genetically modified ingredients that have not been authorised in the EU may not be used in the Community area.

The Regulation does not apply to food and feed produced with genetically modified organisms. The determining criterion is whether or not material derived from the genetically modified source material is present in the finished food or feed. Eating genetically modified feed does not make the animal, its meat or any other product genetically modified, because the genes contained in the feed are broken up in the animal's metabolism. For this reason, products obtained from animals fed with genetically modified feed or treated with genetically modified medicinal products subject to the authorisation or labelling requirements referred to in the Regulation ((EC) No 1829/2003, introductory sentence 16). In other words, under the legislation currently in force, food products obtained from animals with no indication of genetic modification may have been produced using either regular or genetically modified feed.

Pursuant to the Food Act (23/2006, section 9), the information given about food must not mislead the consumer with respect to the properties, composition, nature, identifiability, amount, preservability, origin, or the manufacturing or production method of the food or any other similar factor. Pursuant to the Labelling Regulation ((EU) No 1169/2011, Article 7), no properties may be attributed to a food product which it does not possess or with respect to which it does not differ from other corresponding food products. Voluntary labelling is subject to the same provisions.

MARKETING CLAIMS

Marketing claims shall be clear and unambiguous, and they may not mislead the consumer. In these guidelines, the claims “gmo free” and “the animal has been fed with gmo free feed” are used as examples. However, other kinds of marketing claims may also be used, such as pictures or symbols. From the viewpoint of the consumer, it would be best if just one harmonised wording or symbol was established for use throughout the EU.

PRODUCT CATEGORIES

Genetically modified foods can be divided into three categories depending on the mode of production:

1. Food and feed products that may contain genetically modified ingredients authorised in EU (e.g. soya, maize or rapeseed)

The “gm free”, “the animal has been fed with gmo free feed” or other similar marketing claims may only be used if the food or feed product does not contain any genetically modified ingredients. The threshold value for the gm ingredient level is in this case 0 % (= the detection limit), although the current Labelling Regulation permits the presence of genetically modified ingredients in a proportion no higher than 0.9 % of the food or feed ingredients considered individually, provided that the presence of the gm ingredients is adventitious or technically unavoidable. Even a minute level of any gm ingredient in the product will be considered misleading within the meaning of section 15 of the Food Act 23/2006 and sections 14 and 15 of Feed Act 86/2008. Only properties in respect of which the product concerned differs from other similar products may be attributed to a food or feed product. Operators who use the “gmo free” or other similar marketing claims on their food or feed product shall provide batch-specific analysis results to demonstrate that the product contains no genetically modified ingredients.

2. Food and feed products that contain ingredients of which no genetically modified varieties authorised in EU exists (e.g. rice, oats, papaya, carrot or blueberry)

Pursuant to Section 9 of Food Act 23/2006 and Sections 14 and 15 of Feed Act 86/2008, the use of “gm free” or corresponding marketing claims is misleading on a product that contains no such ingredient that could be made from a genetically modified organism authorised in EU. For this reason, “gmo free” or corresponding claims are not permitted on such products.

3. Foodstuffs obtained from animals (e.g. meat, milk, egg or farmed fish) – requirements for feed

The voluntary “gmo free”, “produced without gene technology” or other similar marketing claim may only be used on foodstuffs obtained from animals (e.g. meat, milk, egg or farmed fish) when the animal concerned has been fed with regular feed throughout its life cycle. Such feed may contain no more than 0.9 % of genetically modified ingredients. The use of additives produced by genetically modified organisms as well as vitamins designed for use in feed and veterinary medicines is also permitted. However, consumers and users of feed may not be misled by giving them the impression that genetically modified ingredients would have been automatically used in the manufacture of other similar products that do not bear the “gmo free” claim. Operators who use the “the animal has been fed with gmo free feed” or other similar marketing claims on their feed product shall verify that the feed contains no gm ingredients at all (= 0 %) (cf. Section 1 above.)

The “gmo free” or other similar marketing claim may not be used on foodstuffs obtained from wild animals.

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Food and feed products that contain several of the product categories listed above (e.g. convenience food or spiced meat product or feed mixture)

Operators may use the “gmo free” or other similar marketing claim on products that consist of several different ingredients provided that each ingredient of the product satisfies the aforementioned criteria.

Organic foods and feeds

Operators may use the “gmo free” or other similar marketing claims on organically produced food and feed products provided that the criteria defined in these guidelines are met.

IN-HOUSE CONTROL OBLIGATIONS OF OPERATORS AND REGULATORY CONTROL

A voluntary marketing claim regarding the mode of production shall be based on an effective in-house control system. The operator is responsible for ensuring that the information provided about the food or feed is true and sufficient. The control of the composition and labelling of genetically modified food and feed is based on the control of the operator's in-house control. The control focuses on verifying the correctness of the mandatory labelling and on ensuring that information is available to the consumer.

Operators who use the “gmo free” or other similar marketing claim on their food or feed of vegetable origin shall verify by means of analyses that the level of the gm ingredient in the product is 0 % (= the detection limit). A representative sample shall be analysed in an accredited laboratory using validated methods. The operator shall be able to provide batch-specific analysis results if requested to do so by the authority. In order to avoid uncertainties, it is advisable that the “gmo free” nature of the food or feed is based on written agreements covering the entire production chain and that matters such as traceability and segregation have been duly verified and documented.

Operators who use the “gmo free” or other similar marketing claims on food products obtained from animals shall similarly ensure that written agreements covering the entire chain are in place. Additionally, the operator shall verify that the ingredients of the product can be traced over the entire chain. Regulatory control is based on documentary control, because analyses of food products of animal origin cannot verify whether the animal has eaten genetically modified feed or not.

Control action is taken if violations are suspected or detected. If misleading “gmo free” or other similar marketing claims are found in the control, their use will be prohibited.

Sources:

Publications of the Ministry of Trade and Industry 31/2007, Report of the working group on how consumers get information on the production method and origin of foodstuffs.

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Changes to the previous version (10017/2, 7.4.2014):

- References to the national labelling decree removed
- Minor stylistic changes and revisions
- Presenting officials, approver and unit updated