

FEDIOL view on an EU legislation on trans fatty acids (TFA)

Summary - FEDIOL position

- **The setting of an EU 2% non-ruminant TFA legal limit on fat basis in products intended to final consumers TOGETHER WITH**
- **The deletion of the existing full/partial hydrogenation labelling as prescribed by Regulation (EU) No 1169/2011**

Context

As per article 30 of Regulation (EU) No 1169/2011 on the provision of Food Information to Consumers (FIC), the European Commission was tasked to assess *the impact of appropriate means that could enable healthier food choice for consumers, including, the provision of information on trans fats to consumers or restrictions on their use.*

Detailed consultations with Member States and stakeholders were organised. FEDIOL took part in each step of the public consultations. Detailed input was provided in June and November 2014¹.

Based on the outcome of the public consultations, the European Commission prepared a detailed report^{2 3}, published in December 2015. It will be followed upon by a Roadmap and a full impact assessment in 2016.

TFA in perspective

TFA can originate from animals as they are produced in the rumen of ruminant animals and hence are found in dairy products, butter and meat. They can also come from the hydrogenation of vegetable oils and fats and also arise during the refining process of vegetable oils and fats, as highlighted by the European Food Safety Authority (EFSA).

For EFSA, and as highlighted in the Commission report, “*evidence is insufficient to establish whether there is a difference between ruminant and industrial TFA consumed in equivalent amounts on the risk of coronary heart disease*”. Hence, there is no reason to believe that TFA from animal origin have a different effect on human health than TFA from vegetable origin.

FEDIOL view

FEDIOL welcomes the European Commission report on TFA and its overall conclusions.

1. Setting an EU TFA legal limit as the most cost effective option⁴

“(...) a legal limit for industrial TFA content would be the most effective measure in terms of public health, consumer protection and compatibility with the internal market (...)”

Since 2014, FEDIOL supports the introduction of an **EU TFA legal limit**.

¹ See FEDIOL views on suggested policy options on TFA, 14NUT332, November 2014.

² Report from the Commission to the European Parliament and the Council regarding trans fats in foods and in the overall diet of the Union population, COM(2015)619 final, 3 December 2015.

³ All texts mentioned below in *italics* are extracted from the Commission report.

⁴ For an overview and assessment of the other not retained options, see Annex I.

Introducing an EU TFA legal limit will:

- consolidate progresses made on a voluntary basis,
- ensure a level playing field to food business operators across EU Member States (due to the multiplication of national TFA legislations) and for imports from 3rd countries,
- eliminate the TFA issue and establish the same standard across all EU countries⁵.

2. Implementing an EU 2%* non ruminant TFA legal limit on fat basis in products intended to final consumers

Reflecting on how to eliminate the TFA issue across EU, FEDIOL strongly advocates the introduction of an **EU TFA legal limit** which is:

- based on a **2%* TFA on fat basis in products intended to final consumers**
- **applicable to non-ruminant TFA**

The EU legal limit would only apply to non-ruminant/industrial TFA not because of health grounds, but well because of technical reasons. In practice, "*technically, ruminant TFA cannot be covered by this measure as TFA are formed (...) in relatively stable proportions in ruminant fats, and cannot be avoided in ruminant products (...)*".

***The 2% TFA legal limit on fat basis is equivalent to the 2g TFA per 100g of oil/fat, in the product intended for the final consumer.**

Such a 2% TFA limit is:

- in line with existing national initiatives such as in Denmark, Austria or Hungary,
- in line with EFSA acknowledgment that TFA are close to 1 to 2% Energy in Europe,
- enabling to get rid of higher levels found in countries such as Croatia, Sweden, Bulgaria, Slovenia or Poland as per the Commission report on TFA,
- consistent with the FEDIOL Code of Practice on refining, which ensures that, during refining, no more than 2% TFA on fat basis is formed, including in bottled vegetable oils.

3. Deleting the existing labelling of fully/partially hydrogenated oils and fats

As per Annex VII of Regulation (EU) No 1169/2011, refined vegetable oils and fats, as an ingredient of a food product or as a food product itself, are to be mentioned on the label if they have been hydrogenated "fully" or "partly"⁶.

With the introduction of such an EU TFA limit legislation as described above, the existing fully/partially hydrogenation labelling will not have any "raison d'être" anymore and should be deleted for the following reasons:

- one of the rationale behind such labelling was to inform consumers on the presence of partially hydrogenated oils which contain much higher TFA levels than 2%, contrary to fully hydrogenated oils where TFA levels are below 2% TFA. With such a new EU TFA 2% legal limit, all those high non-ruminant TFA food products will be gone from the EU market as they will be forbidden in Europe.
- consumers do not know the difference between partially ("partly" according to Regulation 1169/2011) or fully hydrogenated oils.
- consumers confuse both terms, thinking that products labelled as fully hydrogenated contain high levels of TFA.

⁵ See for example Stender S. et al., Tracing artificial *trans* fat in popular foods in Europe: a market basket investigation. BMJ Open 2014.

⁶ Annex VII Regulation 1169/2011 refers to "partly" hydrogenated oils. Looking at other linguistic versions of the Regulation, the term "partly" is referred to as "partiellement" in FR, "gedeeltelijk" in NL or "částečně" in CS. It can be interpreted that the term "partly" is actually meant in the sense of "partially", as also referred to by the US Food and Drug Administration (FDA). However, the wording used in Regulation 1169/2011 is "partly" and when referring to the Regulation, we refer to this wording.

Hence, if an EU TFA legal limit was to be introduced whilst keeping the current mandatory hydrogenation labelling, consumers would continue to think fully hydrogenated oils and food products thereof contain high TFA levels. This would further mislead consumers and lead to discrimination for the vegetable oil and fat sector and particularly for all sectors using such ingredients.

This lack of consumers understanding has been demonstrated in studies⁷ and in the Commission report on TFA, which states that "*(...) the little information available suggests that the majority of Europeans do not know about TFA (...) partially hydrogenated or fully hydrogenated oils. (...)*".

4. Addressing the specific EU regulatory system

In US, it was decided to ban the use of partially hydrogenated vegetable oils in US food products by cancelling its Generally Recognised As Safe (GRAS) status⁸.

Different from the US approach, the Commission report on TFA states that an **EU approach should prevail to tackle TFA**. Indeed, *(...) the approach taken with the US decision regarding the safety of partially hydrogenated oils is not a priori incompatible with an EU legal limit for TFA, since it pursues an equivalent objective within an overall different regulatory framework. Depending upon how a legal limit would be designed for the EU, any prospective divergence with US regulatory standards could also be addressed, thus avoiding the emergence of unnecessary regulatory barriers in bilateral trade. (...)*

⁷ A&B ANALYSE's Danish Panel Survey, September 2014; Vyziva a zdravy zivotni styl ocima spotrebiteľu, Jiri Brat, Potravinářská Revue 2/2015.

⁸ Final Determination Regarding Partially Hydrogenated Oils, Food and Drug Administration Notice, 17 June 2015.

Annex I – Overview of other assessed policy options not considered by the Commission report on TFA as the most cost-benefit ones

1. EU mandatory TFA content declaration in food not the way forward

The Commission report on TFA highlights that (...) *in the specific case of labelling, effectiveness would seem to depend on three key factors: the contribution to the average TFA intake from the products for which a label would be required, consumers' capacity to appropriately use the information provided by a label, and their readiness to pay more for healthier food. A preliminary assessment of these factors points to important limitations.*" (...) "providing TFA information was impacting little on the respondents' ability to identify the healthier alternative in such complex situations. Participants seemed to ignore the TFA information and focus on the other, more familiar nutrients instead."

This demonstrates that a mandatory TFA content declaration should not be pursued.

FEDIOL is also not in favour of this option as:

- it would further increase consumer confusion notably due to the number of information present on the label,
- it would have little practical impact at consumer level, where the ability to interpret and utilise nutrition information in general is often limited.

This is confirmed by many studies⁹ and also not supported by consumer associations.

2. EU voluntary agreements towards reducing TFA in foods and diets reached their limits

As highlighted in the Commission report on TFA, the magnitude of impacts of such an option (in terms of all types of benefits and costs) "*would clearly depend on the scope of industry participation and the coverage of food products on the market*".

In general, FEDIOL prefers the setting of voluntary agreements and self-regulation to address such kind of issues. Voluntary initiatives have indeed helped to reduce TFA over the last years.

However, in the specific case of TFA, self-regulations have reached their limits.

FEDIOL is therefore not in favour of this option to address the TFA issue as:

- it will not contribute to eliminating the TFA issue across all EU countries in the same way as would be achieved by EU legislation,
- it will maintain the discrepancies between those Member States having addressed the issue and those that did not,
- it will maintain the consumers' confusion with the current full/partial hydrogenation labelling.

3. Nothing to gain from EU guidance for national legal limits on the TFA content of food (equivalent to status quo)

"Consequences" of that option "*can be expected to be similar as in the case of no further action at EU level (...)*".

FEDIOL is also not in favour of this option as:

- it will not contribute to eliminating the TFA issue across all EU countries in the same way as would be achieved by EU legislation,

⁹ See for example Downs S. et al., the effectiveness of policies for reducing dietary trans fat: a systematic review of the evidence, Bulletin of the World Health Organization 2013.

- it will maintain the consumers' confusion with the current full/partial hydrogenation labelling.

FEDIOL and structure of the EU vegetable oil and fat sector

FEDIOL is the European federation representing the interests of the European vegetable oil and protein meal industry. Directly and indirectly, FEDIOL covers about 150 processing sites that crush oilseeds/oil fruits and/or refine crude vegetable oils and fats. These plants belong to around 35 companies. It is estimated that over 80% of the EU crushing and refining activities is covered by the FEDIOL membership structure.

The activity of oilseed processing is spread over 17 Member States with a concentration of plants with crushing and refining activities in countries such as Germany, the Netherlands, France, Spain, UK, Italy, Czech Republic, Poland and Belgium.