

An analysis of regulatory scenarios on food labeling in Brazil and Argentina within the overall context of MERCOSUR

This report is an outcome of Front-of-package labeling: a collaborative regional study on MERCOSUR member countries research project, which aims **to produce evidence for the promotion of an effective front-of-package nutrition labeling (FOPL) policy in Brazil and Argentina, and to support political dialogues in other Southern Common Market (MERCOSUR) member countries.**

A summarized **analysis of the current legislation** on food labeling and packaging in Argentina, Brazil, and MERCOSUR, and of the World Trade Organization (WTO)'s regime on the matter is presented below.

ARGENTINA

The following aspects stand out in regard to labeling requirements and justifications for the approval of evaluated norms in Argentina:

- The Argentinian Food Code (Código Alimentario Argentino - CAA) indicates the requirements on how to present information on labels and determines that the provided information must not be false, insufficient or lead consumers to error and/or confusion;
- The CAA also has one section for each food category, in which lays down the obligatory labeling rules specific to each of them, in addition to the general provisions for all types of food;
- The nutritional labeling regulations are not particularly aimed at promoting healthy nutrition; on the contrary, all regulations are aimed at facilitating international trade by guaranteeing accurate information regarding product contents and ingredients, but without a perspective of protecting the consumers' right to health.

“Facilitate international trade by guaranteeing the information on content and ingredients”



BRAZIL

The following aspects stand out in regard to labeling requirements and justifications for the approval of evaluated norms in Brazil:

- The requirements regarding how information is presented on food and beverage labels must be pursuant to the provisions of the Consumers' Protection Code (Código de Defesa do Consumidor – CDC): products' information must be correct, clear, precise, distinctly visible and written in Portuguese regarding product's characteristics, qualities, quantity, composition, price, warranty, expiration date and origin, among other data, and must include information on its eventual risks to consumers' health and safety;
- The key justifications for the approval of the evaluated norms include the protection of health, the protection of the right to information and, in the case of the norms approved under the scope of MERCOSUR, the interest in promoting international trade;
- The Brazilian Health Surveillance Agency (Agência Nacional de Vigilância Sanitária – Anvisa) has recently issued details on how to present information on food allergens and lactose, indicating font size, the need for contrasting letters and package background, and prohibited it from being on a poorly visible spot such as a sealing or twisting area.

“Protection of health, protection of the right to information and the interest in promoting international trade”



MERCOSUR AND WTO

The analysis of the MERCOSUR and the WTO regulatory frameworks provides the following elements:

- Both MERCOSUR and WTO recognize the right of States to legislate and adopt the decisions they may deem necessary to protect access to truthful and accurate information, and the health and lives of their citizens, even when such decisions could represent some kind of barrier or obstacle to the harmonization of norms that favor international trade;
- Therefore, health protection and access to truthful information by countries' citizens are possible windows of opportunity for the approval of autonomous regulations in Brazil and/or Argentina.

“*Health protection and access to truthful information by the countries' citizens are possible windows of opportunity for the approval of autonomous regulations*”



CONCLUSIONS

The analysis of the international regulatory framework, in addition to the applicable national regulations, leads to the following conclusions:

- International trade rules recognize the power of the States to legislate and adopt the actions they may deem necessary to protect access to truthful information by consumers, and the health and lives of citizens, even when such norms could represent a barrier or impediment to the harmonization of norms that favor international trade;
- **Both Argentinian and Brazilian States have the power to establish food labeling and packaging provisions without the need for prior approval under the scope of MERCOSUR**, and both countries have already used their powers on distinct occasions by setting visual warnings, as in the case of the triangle indicating the presence of genetically modified organisms (GMOs) in Brazil and of the warning on products without wheat, oat, barley and rye (TACCs) in Argentina;
- The FOPL of food products is not only a measure to protect public health, but it is also directly linked to the consumers' right to obtain (and, thus, to the States' duty to ensure) access to correct and accurate information, and to the prohibition of misleading advertising – which is also established by national laws such as the Federal Constitution and the CDC in Brazil, and the National Constitution, the Consumer Protection Law and the CAA in Argentina.

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