



HOTREC position on the implementation of the Food Information to Consumer Regulation

Following the adoption of the [EU Regulation N°1169/2011 on the provision of food information to consumers](#), a new EU legal regime will apply from 13 December 2014 to the food served in restaurants.

HOTREC would like to recall that the European hospitality industry is a major actor of the food chain, which delivers millions of meals to citizens across Europe every year. It is therefore strongly impacted by the new Regulation on the provision of food information to consumers.

Given the important changes that this Regulation will bring to the European restaurant industry, HOTREC considers that flexibility and realism are needed to ensure a successful implementation of the Regulation in restaurants, while preserving what makes the real added-value of European restaurants: their rich culinary savoir-faire and the use of fresh-ingredients.

For this reason, the European hospitality industry considers that a common approach should be used by Member States authorities when implementing this new legislation. HOTREC therefore proposes an example of best practice that could be used by governments across Europe to implement the new Regulation in restaurants, so as to ensure a common approach is adopted while preserving the main strengths of the European hospitality industry.

I. New rules on allergen information in restaurants: main challenges and Commission interpretation

Article 44-1 of the Regulation states that only the provision of information on allergens (mentioned in article 9-c) is to be mandatorily provided to consumers in the case of food served in restaurants. Moreover, article 44-2 clearly provides that Member States may adopt national rules stating how the information on allergens can be made available to the consumer.

The implementation of this new obligation will be a real challenge for restaurants, as it will:

- Require the setting-up of some internal procedure to deal with allergen information;
- Imply substantial training of the staff and chef;
- Pose a threat to the use of fresh food in restaurants if the national implementation does not allow for the necessary flexibility (as allowed by the Regulation – see below).

HOTREC would like to recall that most restaurants already handle the questions of allergic people in one way or another, even without an “official” procedure. Nevertheless, **in order for the new obligation to be successful** and to allow consumers suffering from allergies to be well protected in practise, HOTREC considers that the concrete implementation of **this new obligation will require the active engagement by the consumer of a dialogue with the staff/chefs on allergens**. Indeed, a consumer suffering from allergies will not only need to know if there are allergens in his dish, he/she will also need to be assured that precautions are taken to avoid any possible cross-contamination, and, in case this is not possible for a number of reasons, he needs to be clearly told so by the staff/chef.

On 31 January 2013, the [European Commission published a “Questions & Answers” document](#) on the application of this Regulation, with the aim to clarify what is feasible and what is not under the new Regulation. **The European Commission clearly stated that:**

- **In the absence of national measures adopted according to Article 44-2 of the Regulation**, the information on allergens in the food cannot be passed only upon request by the consumer.
- **If Member States adopt national measures concerning the means through which information on allergens shall be provided to the consumer** (according to article 44-2 of the Regulation): such national measures can allow all means of expression, including verbal communication (meaning verifiable oral information). Moreover, in this case, the **Commission indicates that pragmatic approaches are allowed and that national measures can expressly allow the provision of information on allergens upon request, provided that the restaurant prominently indicates that such information is available upon request. Therefore, oral information upon request is a method of information expressly endorsed by the European Commission, provided that it is contained in a national measure implementing the Regulation.**

Extract of the Commission Questions & Answers on the Regulation

Section 2.5.3 (page 6 and 7)

“[...] in a spirit of a pragmatic approach, indicatively, national measures may stipulate that detailed allergen/intolerance information regarding the manufacture or preparation of a non-prepacked food may be given upon request by the consumer, provided that the food business operator indicates in a conspicuous place and in such a way as to be easily visible, clearly legible and, where appropriate, indelible, that such information can be obtained upon request.”

HOTREC strongly supports the adoption of national measures concerning the means through which information on allergens shall be provided to the consumer, as provided by article 44-2.

Such national measures are necessary to ensure that a real dialogue is engaged between consumers and the staff/chef of the restaurant on allergens. This is an absolute necessity, so as to ensure that a consumer suffering from allergies receive an allergen-free meal. Indeed, oral information offers much more safety for allergic people than written information, as this is the only way to be absolutely sure that no risk is taken: passive written information might not achieve that goal (e.g. a customer that often goes to the same restaurant might not necessarily notice a change in the labelling of a dish that he often choose, following a change in the recipe)

Such national measures are also fundamental to allow for the continuous use of fresh food and the regular change of recipes/dishes of the day in restaurants. These features are the true real added value of the European gastronomy and they should not be endangered. Without national measures allowing for flexibility, as expressly allowed according to the European Commission, a “blind” obligation to provide written information on allergens would clearly threatens these positive practices.

HOTREC and the European hospitality industry therefore call on all Member States to introduce in their legislation national measures implementing the Regulation in a flexible manner, as allowed by the Regulation and by the interpretation of the European Commission.

II. Proposal of a European best practice for the provision allergen information in restaurants

Based on the assumptions above, HOTREC proposes an example of a European best practice for the implementation of the new Regulation. This method requires the adoption of national measures in the meaning of article 44-2 of the Regulation that would explicitly refers to that method.

The method would contain the following features:

- **Restaurants should indicate prominently on their menu the following sentence “If you are allergic, please tell us”** (In order to ensure that a dialogue is actively engaged);
- **Providing that the first condition is met, restaurants would be allowed to provide solely oral information** to consumers (as an active response by the restaurant to the dialogue engaged by the consumer);
- **All restaurants need to develop a standard and verifiable internal procedure/policy** on how to response to consumer requests about allergen information (this include training the staff to implement this procedure). A concrete example of such policy/best practice is detailed in annex to this document and should be followed in each restaurant.

III. Other non-mandatory food information

As far as food served in restaurants is concerned, Regulation 1169/2011 does not oblige restaurant to provide to the consumer the other food information provided in article 9 (full list of ingredients, nutrition declaration, net quantity of food, etc.). However, its article 44-1b allows national authorities to request the provision of such food information through the adoption of national legislation.

The European hospitality industry strongly opposes any new obligation on the matter. The new obligation to provide allergen information will already be a real challenge to implement for restaurants, and will already make much **more difficult the use of fresh food and the possibility to offer dishes of the day based on what was found in the local market in the morning.** Any new obligation would make such things impossible and would force chefs/cook to be transformed into professional dieticians, which they are not.

Moreover, as a result of any new information obligation, the dishes offered by restaurants that

currently use non-prepacked fresh varied foods would become more and more standardized and these restaurants would be forced to charge these increased costs to the consumer. The drastic reduction in the variety of dishes would result in a much more limited choice for the consumer. The European culinary heritage would clearly be damaged.

Given the difficulty to implement the new obligation of information on allergens, the restaurant industry cannot cope with any other new obligation of information on the matter. **HOTREC and the European hospitality industry therefore calls on Member States to refrain from requiring the provision of other food information and to concentrate on the adoption of national measures aimed at implementing the new allergen information obligation in restaurants in a flexible and realistic manner, as provided by the HOTREC solution.**

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ALLERGENS

Certain nutrients can provoke an allergic reaction in people who are prone to this. These nutrients are called allergens.

These are the 14 nutrients which are described by the law as allergens

1. cereals containing gluten, namely wheat, rye, barley, oats, spelt, kamut or their hybridised varieties and products derived from cereals containing gluten, except:
 - a. glucose syrup on the basis of wheat, including dextrose;
 - b. wheat based maltodextrins;
 - c. glucose syrups based on barley;
 - d. cereals used for making alcoholic distillates including ethyl alcohol of agricultural origin.
2. seafood and products derived from seafood
3. eggs and products derived from eggs
4. fish and products derived from fish, except :
 - a. fish gelatine that is used as a carrier for vitamin or carotenoid preparations
 - b. fish gelatine or isinglass used as fining agent in beer and wine
5. peanuts and products derived from peanuts
6. soy and products based on soy, except :
 - a. fully refined soybean oil and fat
 - b. natural mixed tocopherols (E306), natural D-alpha tocopherol, natural D-alpha tocopherol acetate and natural D-alpha tocopherol succinate from soybean
 - c. phytosterols and phytosterol esters of vegetable oils from soy
7. milk and products derived from milk (including lactose), except:
 - a. whey used for making alcoholic distillates including ethyl alcohol of agricultural origin
 - b. lactitol
8. nuts, namely almonds (*Amygdalus communis* L.), hazelnuts (*Corylus avellana*), walnuts (*Juglans regia*), cashew nuts (*Anacardium occidentale*), pecan nuts [*Carya illinoensis* (Wangenh.) K. Koch], Brazil nuts (*Bertholletia excelsa*), pistachio nuts (*Pistacia vera*), Macadamia nuts and Queensland nuts (*Macadamia ternifolia*) and products derived from nuts, except for nuts used for making alcoholic distillates including ethyl alcohol of agricultural origin
9. celery and products derived from celery
10. mustard and products derived from mustard
11. sesame and products derived from sesame
12. Sulphur dioxide and sulphites at concentrations of more than 10 mg / kg or 10 mg / liter expressed as total content SO₂ should be calculated for products proposed as ready for consumption or brought back to its original state following the instructions of the manufacturers
13. white lupine and products derived from white lupine
14. molluscs and products derived from molluscs

Know that a very small dose of allergens may already cause a severe allergic reaction (itch, rash, diarrhea, vomiting, swelling, difficulty breathing, etc.) and may even be fatal (deadly).

Therefore it is very important to inform properly the consumer, if he / she asks, about the presence of allergens in some preparations. Note on the menu "Are you allergic, please tell us."

Train your staff, both that of the kitchen, like that of room, so that they are aware of the procedure which they must follow when a customer asks about the presence of allergens in certain dishes. The procedure is described below.

Apply the following procedure each time a customer asks a question about a particular ingredient for which he / she is allergic!

In the kitchen:

- Know that the vast majority of the allergens are resistant to digestion and heat treatment and that a dish or part of a dish may contain several different allergens.
- Take the necessary precautions to reduce the risk of cross contamination.
- For example, when cutting and cleaning of fish, clean the material used and the work table before any other manipulation; avoid baking in the same frying fat foods containing allergens and other foods, etc.

In the room:

- The first to be confronted with a question from a consumer about the presence of allergens in certain dishes is the wait staff.
- That's why the procedure below starts with the wait staff, but of course, the same procedure should be followed even if the question is first made to another employee of the restaurant, eg. the operator that records the reservation.

Procedure to be followed with a question about allergens

Step 1 :: A customer asks if a particular allergen is present in a particular dish.

Step 2 :: Go to the kitchen and put the customer demand to the cook.

→ **Step 2b** : If the cook is not available, then put the question to the present kitchen staff responsible for the preparation of the dish which is concerned by the demand.

Step 3 : The kitchen staff concerned shall notify the appropriate information to the employee who asks the question.

→ **Step 3b** : If necessary, the kitchen staff consults the labelling of their suppliers of the ingredients in question.

→ **Step 3c** : Always consider potential cross contamination and if the risk for cross-contamination exists for the allergen in question, say so explicitly!

Step 4 : The employee who received the customer demand, gives the customer the information from the kitchen staff.

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