

Bird & Bird

Agri-Food Horizon Scan

*What's in store for the Food & Beverage
sector in 2025?*





Introduction

The Food & Beverage sector is currently undergoing significant transformations driven by innovative sustainability efforts and the imperative to build consumer trust.

In this edition of our Agri-Food Horizon Scan, we explore several key legislative and policy developments shaping the future of the Food & Beverage sector, including:

- The EU's Empowering Consumers Directive (EmpCo) and the Draft Green Claims Directive (GCD)
- The latest guidance on applications for authorisation of novel foods
- The Proposal for a regulation on New Genomic Techniques
- The latest developments in the designation of plant-based foods
- Recent changes to the legal framework on Geographical Indications (GIs)
- ESG regulations
- The rules on transparency of price reductions

We hope this brochure provides valuable insights to help you navigate these complex and rapidly evolving regulatory landscapes.

Our team at Bird & Bird is dedicated to offering comprehensive legal support tailored to the unique needs of the agri-food sector. With our global resources and deep industry knowledge, we are here to support you in your journey towards a sustainable and successful future, and we can help ensure you are well-prepared to tackle challenges and seize opportunities.

Do not hesitate to get in touch if you would like to discuss any of these topics with our team.



Nicolas Carbonnelle
Partner, Head of Food & Beverage

T +32 2 282 6040

E nicolas.carbonnelle@twobirds.com

Contents

Environmental Advertising Directives	P3
Novel Foods in the EU	P5
New Genomic Techniques Regulation	P7
Plant-Based Product Labelling	P10
Geographical Indications	P12
ESG Regulatory Outlook	P14
Transparency of Price Reductions	P15
How Can We Support You?	P17



Sustainable sips and bites

Preparing for the New Environmental Advertising Directives

Preparing for compliance

In response to growing concerns over greenwashing and consumer misinformation, the European Union has introduced two pivotal legislative measures: the [Empowering Consumers Directive 2024/825 \(EmpCo\)](#) and the draft [Green Claims Directive \(GCD\)](#). These Directives will reshape marketing practices in the food & beverages industry, particularly with regard to environmental claims made on product packaging and in advertising.

Member states must apply EmpCo by **27 September 2026**. Notably, past communication must also comply with the new rules and businesses have until 2026 to ensure that their past, current and future communication and packaging are compliant.

The application of the GCD is anticipated in **2028** and will once again change the rules on environmental advertising. All environmental claims, including past claims, will need harmonised substantiation, approval before publication, and factual evidence disclosure. To prepare, businesses should begin creating internal lists of all published environmental claims.

What to do in 2025

Businesses should:

- Review **current** environmental communication in view of EmpCo;
- Create **lists** of all environmental communication expected to be in circulation by 2028 to allow for compliance with the GCD; and
- Outfit any future environmental claims with individual **links or QR codes** leading to websites which can be used show the mandatory and harmonised claim substantiation once the GCD applies.

The Empowering Consumers Directive

EmpCo applies in its core to voluntary and B2C communication only. In particular, mandatory reporting is not in scope. However, when sustainability reports go beyond mere mandatory reporting requirements, parts of these reports could be considered voluntary. Lastly, while B2B is not in scope, historically many member states have relied on the B2C advertising rules to also assess B2B advertising.

The application of the GCD is anticipated in 2028 and will once again change the rules on environmental advertising



To be best prepared, businesses should consider both B2C and B2B communication when reviewing the key provisions of EmpCo:

- The use of **generic environmental claims** such as ‘*environmentally friendly*’, ‘*green*’, ‘*biodegradable*’ will either require specification close to the claim or “excellent recognised environmental performance”, meaning the fulfilment of certain standards.
- **Sustainability labels** must either be established by public authorities or be based on a tri-party “**certification scheme**”. No business should create their own labels.
- Claims that a product has a neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions is prohibited, if that claim also relies on **offsetting**. While not specifically defined, carbon removal is likely to also fall under this prohibition.
- Any claim about future environmental performance (“*by 2050 we will be...*”) will require concrete plans, steps, and published third-party monitoring.

Further details and explanations can be found [here](#).

Looking ahead: Preparing for the Green Claims Directive

The GCD introduces even stricter rules for the use of environmental claims. While expected to apply from 2028,

businesses can use the same review required for EmpCo to prepare for the GCD.

Most importantly, the GCD will introduce a 4-step system:

1. Any written or oral environmental claim must be based on a **harmonised assessment** to evaluate the claimed environmental characteristics.
2. The assessment must show a “**significant**” environmental characteristic. Only significant environmental characteristics may be communicated.
3. The assessment must be **verified by official third parties** prior to publication.
4. Only once approved can the claim and a simplified version of the assessment be **communicated**.

Even past communication must comply. Once the GCD is applied, businesses have limited time to apply for verification of their communication which is already in the market. This requires precise knowledge of what environmental communication has been published, for which businesses can rely on the lists mentioned above.

The GCD is still in a draft state and may be subject to change. In particular, the GCD may introduce a category of “simple claims” that only required reduced assessments. Regardless of the changes to come, businesses should have a full overview of their environmental communication in the market.



Dr Constantin Eikel
Partner

T +49 211 2005 6176

E constantin.eikel@twobirds.com



From Labs to Table

An update on the journey of Novel Foods in the EU

Novel foods, defined by EU law as any food not widely consumed in the Union before 15 May 1997 and belonging to one of the categories listed in Regulation 2015/2283, include innovative foods, those produced using new technologies, and foods traditionally eaten outside the EU.

Before these foods can be sold in the EU, they must pass a rigorous safety assessment and obtain regulatory approval. This involves submitting detailed information to the European Food Safety Authority (EFSA) about the food's composition, production process, and potential health effects.

For traditional foods from non-EU countries, the process is slightly different. Applicants must notify EFSA of their intention to market the food, providing evidence of its safe use in a non-EU country for at least 25 years. This notification includes a detailed description of the food, its production process, composition, and proposed conditions of use. If no objections are raised within four months, the food can be marketed. However, if objections arise, additional information may be required, potentially leading to a full safety assessment.

In all cases, safety is paramount in the regulation of novel foods. EFSA conducts risk assessments to protect consumer health, and their findings help the European Commission decide on approvals, setting necessary safety measures and labeling requirements.

EFSA has updated its guidelines to improve transparency and efficiency in the approval process, effective from 1 February 2025. While these updates support innovation and safety, they can be challenging for smaller businesses.

Recent novel food approvals include cultivated apple cells, isomaltulose powder or the juice of the stems of the Angelica keiskei plant. Pending applications involve micro-organisms, fungi, algae, new molecular structures, and plant parts. Future applications are expected to focus on novel proteins, including animal cell-based foods and other precision fermentation applications.

In all cases, safety is paramount in the regulation of novel foods





Despite the framework's intent to ensure safety and foster innovation, it faces criticism for its complexity and lengthy approval process, which can hinder smaller companies and slow down the entry of innovation on the EU market. There are also calls for updates to better address advancements in food technology and concerns about EFSA's capacity to manage the growing workload.

Technology is expected to play a pivotal role in meeting the demand for sufficient, nutritious food for a growing and aging population. Newly developed, innovative products require a careful market entry strategy to be successfully introduced, ultimately ensuring a diverse and safe food supply for consumers.



Nicolas Carbonnelle
Partner, Head of Food & Beverage

T +32 2 282 6040
E nicolas.carbonnelle@twobirds.com



Julie Dernelle
Associate

T + 32 2 282 6065
E julie.dernelle@twobirds.com



New Genomic Techniques

Regulation proposal

Back in July 2023, the European Commission adopted a proposal for a regulation on plants obtained by new genomic techniques (NGTs). This aims to stimulate innovation while maintaining safety standards, as part of the European Farm to Fork strategy¹. The European Parliament followed suit in April 2024, after trilogues notably failed to begin, and now the proposal is with the Council. Within the Council however, the European ministers of agriculture have not yet found sufficient common ground – and next year’s discussion on a European level will prove to be important for the proposal. Businesses active in the agriculture and agritech sector and should proactively monitor the proposal’s progress.

The current framework and the proposal

NGT plants are currently still subject to the existing European framework governing traditional genetically modified organisms (GMOs)². According to a study of the European Commission from 2021 on the legal framework, the strict risk assessment requirements and authorisation procedure under the GMO legislation are inadequate for NGT plants. The European

Commission came to the conclusion that the current legislative framework is considered outdated and must be revised to reflect current scientific and technological advancements³. It was clear that there was a need for new legislation to drive innovation forward.

The current proposal aims to highlight the potential of NGTs to open new opportunities; enabling the rapid development of plant varieties with specific traits. The proposed regulation aims to ensure high levels of protection for human, animal, and environmental health and it seeks to enable the development and commercialisation of plants as well as products derived from NGT plants that, amongst others, contribute to the innovation and sustainability objectives of the European Green Deal. Additionally, it aims to ensure the effective functioning of the internal market for NGT plants and products, enhancing the competitiveness of the European agri-food sector while maintaining a level playing field⁴.

The current proposal aims to highlight the potential of NGTs to open new opportunities

¹ Proposal for a regulation of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625 ([COM\(2023\) 411 final](#)).

² [Directive 2001/18/EC](#) of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC.

³ Study on the status of new genomic techniques under Union law and in light of the Court of Justice ruling in Case C-528/16, [SWD\(2021\) 92 final](#), 29 April 2021.

⁴ Proposal for a regulation of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625 ([COM\(2023\) 411 final](#)), para. 1.



Two Types of NGT Plants

One of the main elements of the proposal is the distinction between two categories of NGT plants, each with corresponding rules. In short, NGT plants considered equivalent to conventional plants, so-called 'NGT 1 plants', would be exempted from the requirements of the existing GMO legislation. These plants will require mandatory labelling for seeds and must be registered in a public online database. To qualify for this exemption, NGT 1 plants must differ by no more than 20 genetic modifications from the parent plant.

For the remainder of the NGT plants, the so-called 'NGT 2 plants', this proposal applies the (strict) GMO legislative framework, including mandatory labelling and traceability requirements. To encourage their uptake, category 2 NGT plants will undergo an accelerated risk assessment procedure.

⁵ Proposal for a regulation of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625 ([COM\(2023\) 411 final](#)). See also: [Carriages preview | Legislative Train Schedule](#).

⁶ OPINION of the French Agency for Food, Environmental and Occupational Health & Safety on the scientific analysis of Annex I of the European Commission's Proposal for a Regulation of 5 July 2023 on new genomic techniques (NGTs) – Review of the proposed equivalence criteria for defining

All NGT plants will remain banned in organic farming, as further research is needed to determine their suitability for this purpose⁵. This legislative separation has been subject to serious discussions amongst the stakeholders, especially after the French Agency for Food, Environmental and Occupational Health & Safety published a scientific analysis on the proposed equivalence criteria, underlining the need for clarification of, amongst others, the scientific basis of the criteria and considering the potential risks from NGT 1 plants⁶. This was then followed by a scientific opinion from the European Food Safety Agency, mandated by the European Parliament, generally confirming the scientific basis of the equivalence criteria.⁷

A Patent Ban on all NGT Plants

Another important hurdle in the negotiations, also raising serious concerns within the industry, is on the patentability of NGT plants.

category 1 NGT plants, 29 November 2023 (<https://www.anses.fr/fr/system/files/BIOT2023AUTO0189EN.pdf>).

⁷ Scientific opinion on the ANSES analysis of Annex I of the EC proposal COM (2023) 411 (EFSA-Q-2024-00178)([Scientific opinion on the ANSES analysis of Annex I of the EC proposal COM \(2023\) 411 \(EFSA-Q-2024-00178\) - - 2024 - EFSA Journal - Wiley Online Library](#)).

The European Parliament adopted its position on the proposed NGT regulation incorporating significant amendments. The most controversial amendment was the introduction of a new article addressing patentability, which proposes a complete ban on patents for NGT plants, plant materials, parts thereof, genetic information, and associated process characteristics. The European Parliament has meanwhile requested a report on the impact of patents on farmers' and breeders' access to plant reproductive material by June 2025. They have further provided a legislative proposal to update European intellectual property legislation.⁸

Severe concerns over the proposed patent ban exists, considering that it could hinder investment, innovation, and global competitiveness. It has also been noted that the ban raises potential conflicts with the European Patent Convention and EPO case law.

⁸ Amendments adopted by the European Parliament on 7 February 2024 on the proposal for a regulation of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625 (P9_TA(2024)0067). See also: [Carriages preview | Legislative Train Schedule](#).



Developments of the legislative procedure

As said, the European agriculture ministers have not yet reached a consensus in the Council of the EU, even though two compromise texts have already been put forwarded (under the former Spanish and Belgian presidency). Patentability of NGT plants is still an important topic in the discussions, and Hungary – which held the rotating presidency last year - suggested expanding discussions to include labelling, controls, and equivalence criteria, which implies that more elements of the proposal are under scrutiny again.⁹

At the very end of last year, on 9 and 10 December 2024 the Hungarian presidency provided an update on the state of play of the proposal during the Agriculture and Fisheries Council meeting¹⁰. From this update, it clearly followed that several major topics are still under debate, and it therefore remains unclear when a general approach will be agreed on by the Council, which would allow trilogue negotiations to commence.

At the beginning of 2025, the Polish presidency commenced, bringing this proposal again under a new presidency. In the upcoming year, many important elements of the proposed regulation will (again) be up for discussion, which makes it difficult to predict what position the Council will take in the final compromise text. This again underlines the importance of keeping a close watch on the developments on a European level, especially given the far-reaching consequences this upcoming legislation will have for the industry, including the overall competitiveness.



Christian Lindenthal
Partner

T +49 89 3581 6153
E christian.lindenthal@twobirds.com



Hester Borgers
Senior Associate

T +31 20 852 9531
E hester.borgers@twobirds.com

Maud van Haaren
Associate

T +31 70 353 8851
E maud.vanhaaren@twobirds.com

⁹ Legislative Train [11 2024 | A European Green Deal | Plants produced by certain new genomic techniques](#).

¹⁰ [2023/0226\(COD\)](#), Council of the European Union, 5 December 2024.



Plant-based products labelling

Navigating the intricacies of EU law

The surge in demand for vegetarian and vegan products has ignited innovation in the food industry, yet it also underscores the critical need for precise and compliant labelling. Accurate labelling prevents consumer confusion and ensures unobstructed sales of plant-based products. The Court of Justice of the European Union (CJEU) has recently clarified labelling rules through two key rulings which might seem contradictory at first glance. This article distills the latest insights on plant-based product labelling in the EU, shedding light on the apparent dichotomy between restrictions on dairy-related terms and allowances for meat-related terms.

Dairy-related terms: a clear prohibition

In the landmark 2017 TofuTown case ([C-422/16](#)), the CJEU ruled unequivocally that terms traditionally associated with dairy products, such as “milk,” are reserved exclusively for animal-derived products. Based on [EU legislation](#), “milk” and “dairy products” must originate from the mammary glands of animals, regardless of clarifying language on labels. [Exceptions exist](#) for products like coconut milk and peanut butter, which are traditionally recognized and clearly describe the product’s characteristics.

Meat-related terms: a nuanced approach

In October 2024, the CJEU addressed the use of meat-related terms in Case [C-438/23](#), stemming from a French ban on using terms like “steak” or “sausage” for plant-based products. The court ruled that EU law does not currently prohibit plant-based products from using these terms, unless specific legal names for such animal products are established within national legislation. This ruling also specified that, while member states can enforce penalties for non-compliance with food regulations, they cannot impose thresholds for plant protein content to restrict the use of meat-related terms. This ensures consistency with, and prevents circumvention, of EU regulations.

Key takeaways for labelling compliance

- 1. Dairy Names:** Plant-based products cannot use dairy-related names unless they fall under specific traditional exceptions.
- 2. Meat Names:** Currently, on an EU level, plant-based products can use meat-related terms unless national laws stipulate otherwise. Compliance with any national regulations regarding so-called ‘legal names’ is crucial.

Accurate labelling prevents consumer confusion and ensures unobstructed sales of plant-based products



3. General Compliance: All food product labels must adhere to the overarching EU food information rules, primarily outlined in [Regulation \(EU\) No 1169/2011](#). This regulation emphasizes protecting consumers from misleading information about the nature and composition of food products. Any animal ingredients or components which are indicated on the label to have been substituted with plant-based alternatives must also be clearly specified.

Conclusion and considerations

Manufacturers face the challenge of balancing innovation with regulatory compliance in the complex world of plant-based product labelling. The CJEU's rulings emphasize the need for labels to comply with EU legislation. By strictly following these legal standards and staying alert to any regulatory changes, manufacturers can successfully navigate this landscape. This approach enables them to continue innovating while ensuring that consumers have the information they need to make informed decisions in an increasingly plant-based market.



Raoul Grifoni Waterman
Associate

T +31 70 353 8808

E raoul.grifoniwaterman@twobirds.com



Geographical Indications

A significant economic factor

Geographical indications (GIs) are gaining importance globally. Not only in the EU, but also in other global regions, where countries are gradually implementing GI regimes, also through international treaties and bilateral conventions. And their influence grows. Specifically, the EU incorporates their GI regime into free trade agreements negotiated with other countries worldwide, thus “exporting” GIs into new areas.

Products protected by GIs in the EU alone represented a sales value of €74.76 billion in 2020, according to a study published by the [European Commission](#).

New developments in the field of GIs in the EU

2024 brought two major legislative changes in the field of GIs:

- The overhaul of the existing legal framework by merging the legal provisions on GIs for agricultural product (AgriGIs) protection into one new regulation which also includes a couple of “upgrades” to the old regime.
- The introduction of a legal framework for GIs for craft and industrial products.

New regulatory framework for AgriGIs

The new Regulation for AgriGIs (Regulation (EU) 2024/1143 on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products) introduces several important changes compared to the previous ones.

Firstly, the new legislation provides a unified and harmonized legal framework for agricultural products, wines and spirits, so far protected by separated laws which are now entirely replaced (Reg. 1151/20121 for agricultural products and foodstuffs) or amended (Reg. 1308/2013 for wines and Reg. 787/2019 for spirits) by the new Reg. 2024/1143.

Secondly, the new regulation codifies some principles developed by the European courts on the infringement of GIs (such as the role of “generic terms” and the concept of “evocation”).

It also enhances protection of GIs by introducing protection in the field of domains as well as rules for the use of GIs as ingredients in products.

2024 brought two major legislative changes in the field of GIs



Lastly, a notable aspect of the new Regulation is its emphasis on sustainability. Producer groups are encouraged to incorporate sustainable practices into their product specifications, which can include environmental, economic and social initiatives.

Introduction of Craft GIs in the EU

The second major development is the introduction of a whole new category of GIs – GIs for craft and industrial products.

Regulation (EU) 2023/2411 of the European Parliament and of the Council of 18 October 2023 on the protection of geographical indications for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 will allow producer groups of craft/ industrial products to apply for the protection of the name of their product as a protected geographical indication (PGI), if:

- it originates in a specific place, region or country
- its quality, reputation or other characteristics must be essentially attributable to its geographical origin and

- at least one stage of the production process must take place in the defined geographical area

The new regime will officially enter into force by December 2025. Applications for protection will be administered both by the member states on national level and the EUIPO on EU level. Therefore, it is high time for all produce groups considering applications to start the work.

New regulatory framework for GIs also in New Zealand

As per the *Geographical Indications (Wine and Spirits) Registration Act 2006 (GI Act)* entered into force on 1 May 2024, New Zealand also adopted a specific regime to protect Geographical Indications (Wine and Spirits) Registration Act 2006 (GI Act). Before the GI Act, GIs for certain wine and spirits were protected in New Zealand but to “enforce” other GIs, owners needed to rely on a patchwork of laws, e.g. fair-trading legislation, passing off and under trade mark law. The GI Act now provides a comprehensive regime protecting approximately 2,000 EU GIs for food, wine, spirits and other beverages. With the upcoming changes in the EU extending

GIs to non-agricultural products, those products will also be able to benefit from GI protection in New Zealand, once registered.

Key features of the New Zealand GI Act

The GI Act restricts the use of registered GIs in New Zealand, unless the GI name is used for the “genuine” product that has been imported from the specific location in Europe and complies with the EU requirements for that GI.

Traders in New Zealand with existing stock in breach of the restrictions can continue to sell stock after 1 May 2024 only until that stock is exhausted. This is subject to a small number of GIs that have phase out periods.

The restrictions are also subject to ‘prior users’, namely businesses that have used the terms “Gruyère” or “Parmesan” continuously for at least 5 years before 1 May 2024 may continue to use the term, provided that they do not violate other rights. However, the use of these terms must be accompanied by a legible and visible indication of the geographical origin of the relevant product. For example, a cheese made in Dunedin that is marketed as “Gruyère” must clearly indicate that it originated in New Zealand.



Niklas Fels
Counsel

T +49 89 3581 6125
E niklas.fels@twobirds.com



Cristiana Andreotta
Associate

T +39 02 3035 6091
E cristiana.andreotta@twobirds.com



ESG Regulatory Outlook

For the Agri-Food Sector

While historically, food regulations have focused primarily on safety and consumer protection, significant ESG-driven legislative and regulatory initiatives have added new and crucial considerations over the past years, making them an intrinsic part of a product's acceptability from the perspective of both consumers and regulators. Environmental, Social, and Governance criteria are increasingly important in the agri-food sector as they guide sustainable and ethical practices.

From an environmental perspective, policies and regulations increasingly promote sustainable farming practices – with the reduction of greenhouse gas emissions, conservation of water, and improvement of soil health at the core of concerns. A number of initiatives also aim at improving working conditions in the agriculture sector.

The Corporate Sustainability Reporting Directive (CSRD) and the upcoming Corporate Sustainability Due Diligence Directive (CS3D) aim to increase transparency and reporting, as well as to enact action plans to address the social and environmental impacts of businesses. In addition, specific requirements under instruments such as the EU Deforestation-free Regulation constitute another source of new obligations that particularly affect the agri-food sector.

While national and international regulations are becoming stricter, pushing companies to comply with ESG standards, consumer pressure also plays a role. Consumers increasingly prefer ethically sourced and sustainable products, driving companies to adopt ESG practices and address these challenges through increased transparency and detailed communication about the sustainability credentials of the products offered to consumers.

Implementing ESG practices can be complex and costly initially. Managing supply chains and ensuring compliance can also be challenging, given in particular the higher level of transparency required by new regulations.

Despite the challenges, ESG practices offer long-term benefits such as improved reputation, better risk management, and access to new markets. For these reasons, monitoring developments in the ESG regulatory framework and anticipating changes to ensure compliance can be expected to remain of key importance in 2025 and beyond.



Nicolas Carbonnelle

Partner, Head of Food & Beverage

T +32 2 282 6040

E nicolas.carbonnelle@twobirds.com

Consumers increasingly prefer ethically sourced and sustainable products



Transparency of Price Reductions

Expected to Remain a Hot Topic for 2025

A closer look at the legal framework in the EU and its impact on market practices

The rules on price reduction announcements have sparked much discussion within the EU market since their introduction in 2023. Effective discount campaigns to promote products are at the heart of every company's strategy. But as national enforcement authorities in the EU closely monitor compliance with these rules, having already imposed penalties in various EU member states, understanding the new legal framework is crucial.

Announcements of price reductions

The legal framework applicable to price discounts, introduced in 2023, is formed by the rules on announcements of price reductions and the regulations concerning unfair commercial practices. In summary, when making announcements of a price reduction, sellers are required to indicate the lowest selling price applied by the seller during a period not shorter than thirty days prior to the application of the price reduction. This lowest selling price is generally referred to as the 'prior' price.

This main rule follows from article 6a of the Price Indication Directive (Directive 98/6/EC or 'PID').

A price reduction can be announced in various ways, such as through a reference to a previous price ("from-to" offers) or in terms of a percentage or amount (e.g., "20% off"). Also, general price reduction statements (e.g., "sale") qualify as a price reduction announcement. Generally, the 'prior' price must be indicated on or with the specific product.

Certain exceptions apply to the main rule, which may vary per EU member state. Specifically relevant for the food and beverage industry is the exception for 'goods which are liable to deteriorate or expire rapidly', i.e. perishable goods. Perishable goods, including fresh foods and beverages, may need to be discounted more often in order to sell them faster due to approaching expiration dates. The relevant exception allows traders to indicate the sales price applied immediately prior to the price reduction.

Effective discount campaigns to promote products are at the heart of every company's strategy



Unfair commercial practices

Certain price reduction practices do not fall under the PID, but are governed by the regulations on unfair commercial practices. Such practices, which are often used in the F&B sector, include combined or tied conditional offers (e.g., “buy one, get two” or “30 % off when buying three”) and comparisons with other prices, such as the manufacturer’s recommended retail price or RRP. Generally, the Unfair Commercial Practices Directive (Directive 2005/29/EC) requires that consumers are not misled by unfair price reduction practices. For example, when a price comparison is actually perceived by an average consumer as a price reduction, this practice will likely be deemed a breach of both the PID and the Unfair Commercial Practices Directive.

Enforcement

Since the national implementation of the new rules on price reduction announcements, there has already been significant enforcement activity in the EU. National enforcement authorities in various member states closely monitor compliance, issuing warnings and offering guidance on compliant pricing practices.

Penalties are effectively being imposed in various EU member states, including Belgium, the Netherlands and Spain.

Additionally, a case has been brought before the European Court of Justice (‘ECJ’). The ECJ addressed misleading price reductions in a recent case concerning Aldi (C-330/23) regarding advertisements for different types of fruits, reinforcing that price reduction announcements must be based on the lowest price in the thirty days. This matter showcases that enforcement is also taking place in the F&B sector.

Looking ahead

Looking ahead, we expect continued enforcement of the rules on price reduction announcements in the EU in the upcoming years. This will likely provide more clarity in the practical application of these rules. The evolving legal landscape and ongoing enforcement actions in the EU underscore the importance of focusing on compliance with rules governing price reduction announcements.



Lisette den Butter

Senior Associate

T +31 70 353 8958

E lisette.den.butter@twobirds.com



How can we support you?

Nourishing growth, cultivating success

Bird & Bird's International Food & Beverage team offers specialist legal support tailored to the needs of the sector. Many of our food & beverage lawyers have worked in-house, and therefore have an in-depth understanding of the key opportunities and challenges in the sector. With our global resources and deep industry knowledge, we are here to support you in your journey towards a sustainable and successful future.

Support from field to fork

Our clients range from renowned global brands to emerging startups and SMEs. We offer tailored advice to growers, manufacturers, distributors, restaurants, supermarkets, marketplaces, and delivery providers within the industry, guiding businesses across the entire supply chain journey of F&B.

In today's landscape, you contend with consumer expectations and a dynamic regulatory environment that spans sustainability, ethical production, labelling, and food sourcing, whilst also managing challenges of cost pressures, workforce dynamics and technological changes. We provide comprehensive guidance throughout every phase of your business journey, helping to ensure you are well-prepared to tackle challenges and seize opportunities.

Our international Food & Beverage team includes experts in all practice areas.

Find out more by visiting our [webpage](#)

An international approach

With team-members in each of our international offices, we are able to provide on-the-ground support across the globe.

Europe: Amsterdam, Bratislava, Brussels, Budapest, Copenhagen, Dublin, Düsseldorf, Frankfurt, The Hague, Hamburg, Helsinki, London, Lyon, Madrid, Milan, Munich, Paris, Prague, Rome, Stockholm and Warsaw.

Middle East & Asia: Abu Dhabi, Beijing, Dubai, Hong Kong, Shanghai, Singapore, Sydney and Tokyo.

North America: San Francisco.

As an international full-service law firm, Bird & Bird acts as a one-stop-shop for all of our food & beverage clients' legal needs, including:

- Competition
- Consumer law
- Advertising
- Green claims
- F&B regulatory
- Corporate
- ESG
- Supply chain & logistics
- Dispute resolution and avoidance
- Technology and e-commerce
- Intellectual property
- Employment and immigration
- Privacy & data protection
- Real estate
- Tax

Bird & Bird

One firm. Your firm.

Our sectors

Automotive
Aviation & Aerospace
Defence & Security
Energy & Utilities
Financial Services
Life Sciences & Healthcare
Media, Entertainment & Sport
Retail & Consumer
Technology & Communications

[twobirds.com](https://www.twobirds.com)

The information given in this document concerning technical legal or professional subject matter is for guidance only and does not constitute legal or professional advice. Always consult a suitably qualified lawyer on any specific legal problem or matter. Bird & Bird assumes no responsibility for such information contained in this document and disclaims all liability in respect of such information. This document is confidential. Bird & Bird is, unless otherwise stated, the owner of copyright of this document and its contents. No part of this document may be published, distributed, extracted, re-utilised, or reproduced in any material form. Bird & Bird is an international legal practice comprising Bird & Bird LLP and its affiliated and associated businesses. Bird & Bird LLP is a limited liability partnership, registered in England and Wales with registered number OC340318 and is authorised and regulated by the Solicitors Regulation Authority. Its registered office and principal place of business is at 12 New Fetter Lane, London EC4A 1JP. A list of members of Bird & Bird LLP and of any non-members who are designated as partners, and of their respective professional qualifications, is open to inspection at that address.