



## Regulatory measures to tackle food waste across the EU

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A Leatherhead Food  
Research white paper

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# Regulatory measures to tackle food waste across the EU

With a rising global population, pressure is mounting to curb the amount of food waste produced along the whole of the supply chain. In this white paper, Regulatory Analyst Adelheid Völkl takes a look at current regulatory developments in the area of food waste, what measures regulators are taking to address it and how industry can contribute to reduce the problem.

Countries from within the European Union produce around 89 million tonnes of food waste each year<sup>1</sup>. This amount of spoilage causes a considerable drain on resources from both an agriculture and manufacturing perspective and puts a huge strain on waste disposal processes. The ethical and economic implications of wasting food are significant, but there are other consequences. For example, decomposing food waste poses a significant problem for our climate as it releases methane, a potent greenhouse gas.

Food waste can stem from a number of sources: from loss during agricultural production (e.g. through droughts and floods), during manufacturing or distribution, and in the individual's home itself. Advances in technology have made it possible to reduce loss on all levels along the production chain. However, at the same time, measures which aim to protect consumers from potential health hazards, standardise quality or to hold companies free of liability have led to an increase in food waste, somewhat countering any advancements made.

## No EU-wide policy on food waste

In March 2017, the European Parliament voted on the Circular Economy Package, agreeing upon an aim to reduce food waste by 50% by 2030, as per the goal proposed by the UN.

In order to achieve this target, the EU Parliament recommends the recycling of 70% of food waste, a figure which it aims to anchor in legislation. Even though this target would not be legally binding at a Member State level, it marks an important step in the right direction. In June 2017, food waste and sustainability were major items on the agenda of a discussion within the High Level Forum on the Better Functioning of the Food Chain. This forum, set up by the EU Commission, is committed to helping with the development of policy within the food and drink sector, as well as contributing to a better functioning food supply chain.

This relatively newfound attention illustrates that the problem has now reached a level of acuteness that is calling law-makers to take action. One difficulty is that no official

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<sup>1</sup> European Commission (2017) Food Waste. Accessed: [https://ec.europa.eu/food/safety/food\\_waste\\_en](https://ec.europa.eu/food/safety/food_waste_en)

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overarching definition of “food waste” exists. A first step in addressing the problem is going to be finding a legal definition for “food waste”. This is, however, proving to be a real challenge for regulators.

In the absence of EU-wide policy on the issue, many European countries are working on national measures. This white paper gives some examples of regulatory attempts to curb food waste at the EU Member level.

### **Best before date, use by date and new alternatives**

The general public are still largely confused by the two ways to communicate product durability that are permitted by legislation, as per EU-wide regulation:

The *Best before date* (BBD) serves as a form of guarantee by the manufacturer that a product will retain its characteristics in full, up to the point in time specified, if stored according to the manufacturer’s instructions. As companies are eager to leave the best possible impression with their customers, this date can be unnecessarily short. Its purpose is to indicate that beyond that point in time, quality parameters might shift, e.g. crisps becoming less crispy or yoghurt losing creaminess. It is not intended to be interpreted as a point at which a product becomes a potential health hazard – that is the purpose of the *use by date* (UBD). The UBD can be found on perishable goods like raw meat and fish, which might indeed pose a health risk if stored beyond the date indicated. However, in recent years, food manufacturers in the UK, for example, have increased their use of the UBD over the BBD to avoid the possibility of liability claims.

Efforts are being made to address the ongoing confusion between BBD and UBD – for example, there are new suggestions for the wording of these statements e.g. “best if used by...” This is an area where new regulatory measures may be able to help. For this reason, the European Commission has been tasked with reviewing whether current wordings are “fit for purpose” and to suggest a more consumer-friendly variant if necessary. Widening the range of products for which the BBD may be omitted, such as sugar or salt, has even been proposed.

### **Regulation on sale of food close to and beyond the BBD**

A common misconception, not only among consumers but also among retailers, is that food products cannot be sold once the BBD has passed. For the most part, this is not true. Whereas it is illegal to sell food with an elapsed UBD (which is a food safety measure), there are no legal obstacles in place for selling food products beyond the BBD, as long as the consumer is made aware of the fact that the BBD has already passed.

In most countries, it has already become customary to sell off foods shortly before the end of their supposed lifespan. Indeed, in Denmark, for example, there are entire supermarket chains running on the concept of selling food beyond its BBD at discount prices.

It is interesting to note that many durable foods like yoghurt or eggs may unnecessarily bear a UBD, after which sales would be illegal, and could easily and safely be marked with a BBD instead. It remains to be seen if regulators will tackle the issue of misusing the UBD in this way.

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## **Donation of food and legal responsibilities**

Another way to avoid food being wasted is donating it to charity. However, a major issue when donating food is liability, as the company or person under whose name a product is sold is legally responsible for any damage that may arise. This is one reason why many businesses are reluctant to donate unused food, as they fear their act of charity may backfire.

However, law-makers may be able to force businesses' hands, as is the case in France where a law, passed in 2016, prohibits retailers from disposing of unsold (but edible) food items as waste. Instead, it is mandatory to donate leftover foods to charities, food banks etc.

Whilst not going to quite the same lengths, some other Member States have been trying to at least make the food donating process simpler to encourage businesses to hand out excess stock instead of destroying it. In Italy, legal provisions were put in place in 2016 to facilitate the distribution of unsold items, even if they were mislabelled or past their BBD as long as they are safe. Similar policies also exist in Poland.

## **Other regulatory measures e.g. curbing waste in production**

A large number of regulations already impact the area of food waste. In some cases, labelling regulations, such as Regulation (EC) No. 1169/2011 FIC, intended to improve the quality and thoroughness of information available to consumers, are having an adverse effect on food waste, increasing wastage of edible foods that cannot be labelled according to the legal requirements. This is the case in

Poland, for example, where mixed meat cut-offs are a popular, but difficult-to-control merchandise.

France launched a comprehensive review of the French food sector in July 2017, to address problems such as sustainability and food waste.

There has also been discussion about how offers like "1 + 1" or "3 for 2" encourage wastage and regulatory measures may be forthcoming in the future.

The European Commission has been called upon to determine whether regulatory measures are needed by 2020.

Non-regulatory approaches are being explored in Germany, the Netherlands, Hungary and Spain, where national frameworks for action on a voluntary basis are being established.

It remains to be seen whether regulatory or non-regulatory approaches will be most effective in curbing food waste. It is clear, however, that action is required by all players along the supply chain from agriculture to manufacturing and from retail to consumption.

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## **How can Leatherhead help you reach your company's sustainability goals?**

Many manufactures are committed to reducing food waste, recognising their societal obligation towards a sustainable and economic industry. Even simple measures can help to reduce cost during manufacturing while enabling consumers to get the most out of your product. As a first step, BBDs and UBDs can be reviewed and re-organised based on storage tests. These can be conducted under life-like conditions, or as stress tests.

Knowing how and to what extent a product changes over time can help to determine its lifespan. Procedures can be devised to prevent unwanted changes to the product, e.g. through new packaging or process adjustments. Sensory science can help to determine if, and at what point, the effects of time become noticeable to the consumer, and whether these affect liking or acceptance.

Furthermore, production processes can be reviewed to identify sources of wastage and optimise the utilisation of resources by minimising loss. Finally, an analysis of regulatory frameworks can help to fully utilise any leeway given.

Leatherhead can help with all of this.

### **About the author**

Adelheid Völkl is a Regulatory Analyst in the Global Regulatory Team at Leatherhead Food Research with five years' experience in the food industry, both as a Quality Manager and Product Developer. As a native German speaker, she is an expert on German, Austrian and European food regulations. She has degrees in Nutritional Sciences with specialisation in Food Technology from the University of Vienna (Mag. rer. nat.), as well as in Food Product Development & Resource Management from the University of Applied Sciences Wr. Neustadt (M.A.). She became part of the Leatherhead regulatory team in 2017.



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Leatherhead Food Research provides expertise and support to the global food and drinks sector with practical solutions that cover all stages of a product's life cycle from consumer insight, ingredient innovation and sensory testing to food safety consultancy and global regulatory advice. Leatherhead operates a membership programme which represents a who's who of the global food and drinks industry. Supporting all members and clients, large or small, Leatherhead provides consultancy and advice, as well as training, market news, published reports and bespoke projects. Alongside member support and project work, our world-renowned experts deliver cutting-edge research in areas that drive long-term commercial benefit for the food and drinks industry. Leatherhead Food Research is a trading name of Leatherhead Research Ltd, a Science Group (AIM:SAG) company.

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