

# The Official Controls Regulation (EU) 2017/625 of the European Parliament and the Council (OCR) – Official Control on labelling



27 November 2019



## Please note:

In the presentation the following abbreviations will be used:

OC(s) - Official Control(s)

CA(s) – Competent Authorities

MS(s) – Member State(s)

OCR – Official Controls Regulation

OV(s) – Official Veterinarian(s)

NC – non-compliance

# Reg. (EU) 2017/625

Poses a particular **emphasis on the risk that consumers might be misled** by mean of deceptive or false information on foods and other goods

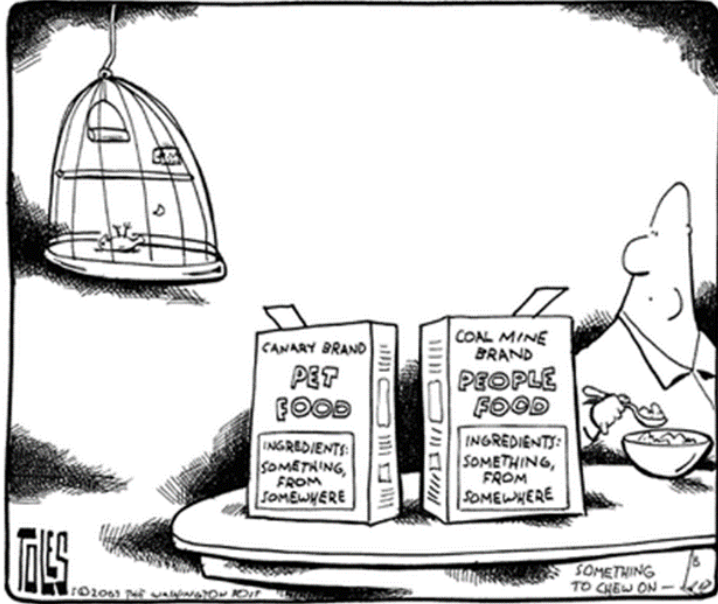
Actually, the protection of consumers' interest in relation to food is already among the **objectives of Reg. (EC) 178/02** (\*) and Reg (EC) 882/04 includes the guarantee of fair practices in feed and food trade and the protection of consumer's interests among the **scope of OCs** (°)

(\*) art. 1.1 – “Aim and scope” and 5.1 – “General objectives

(°) art. 1.1 – “Subject matter and scope”



# Since the definition of its subject matter and scope



The regulation makes clear that OCs shall

- **aim to verify compliance** with the rules expected at ensuring **fair practices in trade** and **protecting consumer interests** and information in the area of foods and feeds <sup>(1)</sup>
- be **performed** on a risk basis **taking account of** any information indicating **the likelihood that consumers might be misled** <sup>(2)</sup> and
- identify **possible intentional violations** perpetrated **through fraudulent or deceptive practices** <sup>(3)</sup>

(1) art. 1

(2) art. 9.1 (b)

(3) art. 9.2



# Interestingly,

Reg. 2017/625 does **not** contain a **definition** of “fraudulent or deceptive practices” (that is “**Frauds**”). The **distinctive elements** of frauds can anyhow be learned reading the regulation:

- The **voluntary infringement** of rules through
- The **research of an advantage** (generally financial) through
- The **supply of misleading** or false **information** to the customer



# Examples



Undeclared horse meat in bovine meat preparation and bovine meat based products

Violation of Reg (EC) 1169/2011 on the provision of food information to consumers

"Pure bovine minced meat" samples containing more than 25% of horse meat

Intentional substitution of bovine meat with horse meat

Horse meat is much cheaper than bovine meat

Economic gain

Consumer (and other customers) buying horse meat for the price of bovine meat

Deception of consumers (and other customers)

# Examples



Undeclared peanuts in hazelnuts consignments (allergic reaction in consumers)

Violation of Reg (EC) 1169/2011 on the provision of food information to consumers

Not accidental: 14, 16 and 22% substitution

Intentional substitution of ground hazelnuts with peanuts

Peanuts are much cheaper than hazelnuts

Economic gain: ~400\$ per Ton

Consumer (and other customers) buying peanuts for the price of hazelnuts exposed to the risk of allergic reactions

Deception of consumers (and other customers)

# Examples



Adulteration of beeswax intended for honey production with stearin and paraffin

Violation of Dir. 2006/114/EC: Misleading advertising - Reg. 1069/2009 on Animal By-Products - Reg. 231/2012 on specification of food additives

Adulteration of food grade beeswax with cheaper "waxes"

Intentional substitution

Retail price of beeswax is 13 €/kg vs paraffin (candlewax) 6 €/kg

Economic gain: ~7€ per kg

Customers believe to buy an authorised and safe product instead of non-food grade ingredients  
Increased mortality of bees (negative issues on brood development)

Deception of consumers (and other customers)



# Examples



Tuna frozen in brine (or “aged” tuna) sold as fresh after treatment with “refreshing” substances

Violation of Reg. (EC) 853/04 on hygiene of food of animal origin, Reg. 1333/08 on food additives, Reg. 1169/11

Adulteration tuna fish by mean of carbon monoxide or nitrites

Intentional treatment

Price of fresh tuna is 12-15 €/kg vs tuna intended for canning 2-3 €/kg

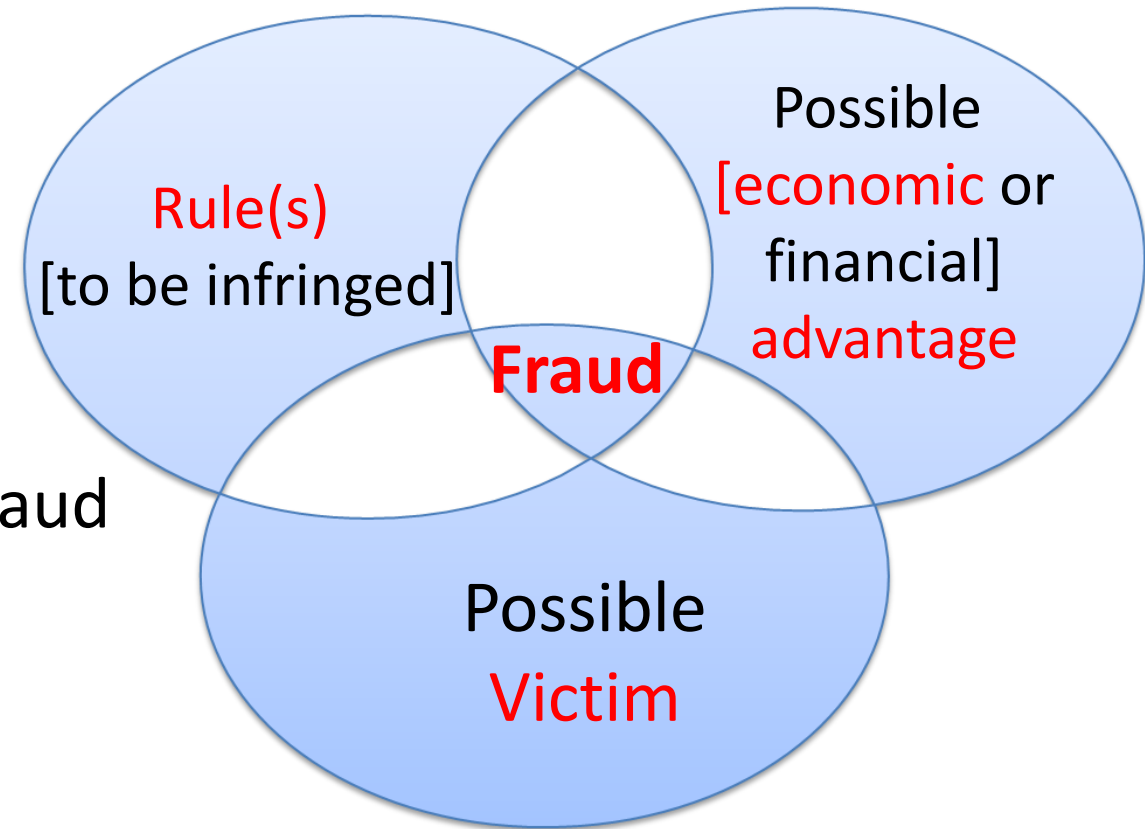
Potential gain 200 Million €/year

Customers buy adulterated low-quality for fresh high-quality tuna. Increased risk of histamine intoxication and increase, involuntary assumption of NO<sub>2</sub> (potentially cancerogenic)

Deception of consumers (and other customers)

# Conditions necessary to Frauds

- **Rules:** define the conditions for the production, processing and commercialization of food
- Economic **advantage:** gives the motivation to plan and commit the fraud
- **Victims:** the supply of deceptive information bring them to behave differently from the way they would should they have received transparent and truly information



# Even if it may seem strange



The **legal restrictions** (legal context ) **are essential** in determining the conditions for fraud realisation:

- What/how **is possible** to prepare/process foods (feeds)?
- What/how **can be used** in food (feed) processing?
- What is **forbidden** to use in food/feed preparation/processing?
- Any **fiscal obligation** linked to the production/commercialization?
- Is there any legal/mandatory **denomination**?
- What kind of **information** are to be delivered to the customers?

# The economic advantage is always the spring



Food frauds are often **planned in details** by **well-built** (often international) **organizations**, having clear objectives and strategies aiming to **achieve huge earnings** (not petty thieves)



# To investigate and control food frauds

It is important to “follow the money”





# Penalties (effective, proportionate and dissuasive) – art. 139



**Financial penalties** for violations of the rules referred to in Article 1(2), perpetrated through **fraudulent or deceptive practices**, shall reflect at least **either the economic advantage** for the operator or, as appropriate, **a percentage of the operator's turnover**



# The victims

Are the third element necessary to food fraud accomplishment.

Possible **victims** are customers

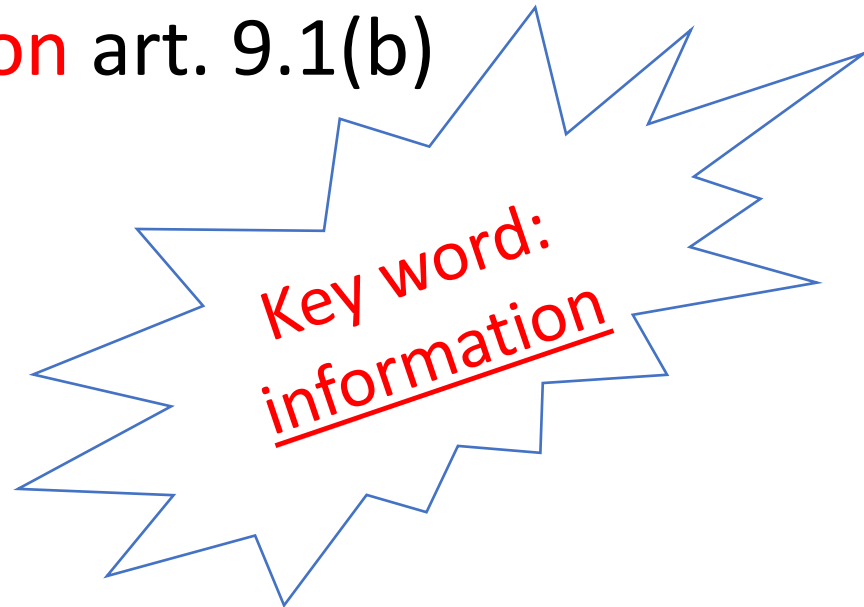
- **Unaware** of possible risks
- **Looking for good bargains**
- (Easily) **misled** by the provided information
- **Unable to understand** (or “to look behind”) the provided information or...



Anyone trusting the product or the food business based on the Authority's ability to prevent frauds

# OCs programming and investigations on food frauds

When programming OCs, CAs shall take into consideration any **information** indicating the likelihood that consumers and other customers are victim of **unfair** productive and/or commercial **practices** pursued by mean of **misleading or false information** art. 9.1(b)



# Information



May come from:

- **OCs performance** (direct observation of possible unfair practices)
- The Administrative Assistance and Cooperation (**AAC**) System and the Food Fraud (**FF**) Network (information from other MSs)
- **iRASFF** System (possible frauds that have an impact even on human or animal health)
- **Controls on imported** foods and feeds
- Controls performed by **other Authorities** (e.g. financial investigation Authorities)
- **Consumers, competitors** as single or associated

# OCs performance and investigation on food frauds

Food fraud are accomplished by mean of **misleading or false information** delivered to the consumers/customers.

All the **information on foods provided to the consumers**, irrespective of the way they are supplied to (**labelling, presentation, advertising**, etc.), shall be taken into consideration by the CAs' staff performing OCs. (art. 14) along with **food processing**

Information on food are **not necessarily false**, it's sufficient they are **misleading**





# OCs performance and investigation on food frauds



"I read all package labels for my health. Now my eyes are shot!"

In case of doubts, **further** and deeper **examination** shall be carried out (e.g. sampling and **analysis**, **traceability** test, **documentary check** – import certificate, fiscal documentation, etc.)

# Any element listed by art 9 of Reg. (EU) 1169/2011



May be communicated to the consumers in a misleading way. Often **the same item** may transmit deceptive information on **several aspects** (food identity and quality, characteristics and properties, quantity, durability, way of consumption)

## (a) The name of food

- Chinese **jelly fish** imported and labelled as “**bamboo sprouts**” (illegal import of potentially risky foods)
- **Meat preparations** labelled as **meat products** (illegal use of food additives)
- **Seeds oil** coloured with chlorophyll and labelled as **olive oil**
- **Species replacement** (fishes, dairy products, meats and meat based products)



## (a) The name of food

- “**fresh**” for preserved foods (e.g. **defrosted**)
- **Mineral oil** in seeds oil
- “**all natural**” foods containing vegetal extract providing **high nitrates content** acting as preservatives labelled “without/no preservatives” (fraud?)



## (b, c, d) ingredients and allergens

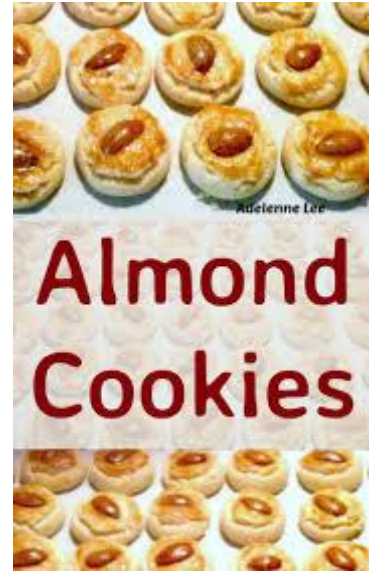
- Presence of **undeclared** (possibly illegal) **ingredients** (including food additives, food colours, etc.)
- **Substitution of ingredients** with other having a lower value (and possibly causing allergies or intolerances)
- Ingredients (or product denomination) are listed in the **language** of the Country of origin but are missing in the label of the Country where the foods are commercialised (possibly illegal import)





## (b, c, d) ingredients and allergens

- Ingredients **listed irrespectively of their** actual order of **weight** (consumers pushed to think there is a higher or lower content of certain ingredients)
- False indication of the **quantity of an ingredient** or category of ingredients usually associated with the name of a food or essential to **characterise a food**
- Undeclared **medically active substances** in herbal preparations or dietary supplements



## (e) Net quantity



- Brine or other **liquid media exceeding** the declared quantity

**Water** used in **higher quantity to rehydrate** an ingredient used in concentrated or dehydrated form



(f) the date of minimum durability or the 'use by' date

- Relabelling of expired foods or of food close to the expiring or "best before" date
- Freezing of fresh meats close to their expiring date





## (i) the country of origin or place of provenance

- False PDO or PGI products
- False provenance of fisheries products
- False or **misleading provenance**, origin or other **information** suggested by mean of **images**, phrases, mots



# (I) nutrition declaration



- **False nutritional labelling** (may be in connection with the substitution of some components)
- Nutritional **claims** (e.g. “sugar free” fruit juice, “lower cholesterol content” when all the foods of the same category have the same content)





# Import controls and food fraud prevention



## Official controls performed

- by MSs on consignments with the same origin or use of those presented by an operator **suspected of fraudulent or deceptive practices** (mislabeling, undeclared or counterfeit origin, false documents, seals, signatures, etc.)
- by the Commission in third countries whenever there is **evidence or risk of fraudulent or deceptive practices shall be intensified**

# Conclusion

- Reg (EU) n. 2017/625 emphasise the need to **contrast food fraud**
- **No legal definition** of “Food Fraud” is present in the Regulation that clearly provides for its **elements**: Voluntary infringement of rules, high profit research and the customers deceit
- Customers deceit is pursued by mean of **false, lacking or misleading information**
- **Any element** of the mandatory food information may be presented in such a way to mislead consumers
- To prevent food frauds **OCs** shall then be **focused on the information** provided to the consumers (and other customers)



Thank you for  
your attention

