

FSA 22-06-04 - FSA Response to Ukraine Conflict Supply Chain Disruption: Ingredient Substitution and Labelling

This paper provides a consolidated overview of the FSA's response to supply chain disruption arising from the conflict in Ukraine; sets out the provisional tests that the FSA has developed to support decision-making that have been applied in respect of sunflower oil substitutions and labelling during this incident; and sets out the proposed approach to and associated planning assumptions in respect of a return to the food labelling status quo.

Report by Rebecca Sudworth and Junior Johnson.

1. Summary

1.1 Ukraine is the largest producer of sunflower oil in the world, responsible for almost half of global supply. The conflict in Ukraine has, amongst many other things, disrupted the supply of sunflower oil and products derived from sunflower used in food production to the UK. A significant proportion of processed food products contain sunflower oil. Action has been required to support the food industry as it reformulates products across the food chain to prevent extensive supply chain disruption and maintain availability, with particular respect to food labelling when sunflower oil is substituted with other vegetable oils.

1.2 The FSA's activities contribute to the wider Government response to the conflict in Ukraine, primarily working with the Department for Environment, Food and Rural Affairs (Defra) as the lead government department for food security and supply and Food Standards Scotland (FSS) to support government efforts to maintain the food supply chain in a way that is safe and supports the interests of consumers. This response is being managed as an FSA-led joint FSA/FSS incident, working closely with Defra, Department of Health and Social Care (DHSC) and the governments of the devolved nations, respecting the differing policy responsibilities on food labelling, composition and nutrition across the FSA and the UK as set out in **Annex A**.

1.3 This paper provides a consolidated overview of the FSA's response to supply chain disruption arising from the conflict in Ukraine on which the Board has received regular updates; sets out the provisional tests that the FSA has developed to support decision-making that have been applied in respect of sunflower oil substitutions and labelling during this incident, and could potentially be applied in other circumstances that lead to supply chain disruption; and sets out the proposed approach to and associated planning assumptions in respect of a return to the food labelling status quo.

1.4 The Board is asked to:

- **Note** the consolidated update on the FSA/FSS response at **Annex A**.
- **Discuss** the tests at **Annex B** and **agree** that they should be adopted and applied in future when considering action to address issues arising from shocks to the food supply chain.

2. Introduction

2.1 The conflict in Ukraine has led to disruption of the food supply chain relating to sunflower oil. Ukraine is the largest producer of sunflower oil in the world, responsible for almost half of global supply; the next largest producer is Russia. A combination of supply chain disruption and international sanctions against Russia has created a global shortage that may last for an extended period. Supplies of agricultural products from Ukraine are also affected by damage to crops from fighting, the inability to sow seed for this year's crop, contamination of land from military activity and severe disruption to the Ukrainian transport network and Black Sea shipping routes.

2.2 With industry estimates that around 70% of processed food products contain sunflower oil, the disruption had, and still has, the potential to affect a range of foods due to the need for reliable sources of alternative oils to be identified and products to be rapidly reformulated and relabelled.

2.3 In March 2022, in the face of imminent shortages of sunflower oil due to supply chain issues arising from the Ukraine conflict, the food industry approached Defra for urgent support, requesting a proportionate approach to enforcement of food labelling requirements by local authorities that would enable manufacturers to reformulate products to use other vegetable oils without changes to labelling in the short term, in order to maintain the supply of affected products.

2.4 Industry has indicated lead-in times for changes to food labelling generally run from 6-12 weeks. On this occasion lead times have been extended by uncertainty about establishing new and reliable supplies of vegetable oils, impacting on what amended labelling should state; businesses seeking changes to labelling at the same time placing pressure on packaging manufacturers. The situation was compounded by a strike in paper mills in Finland that produce labels for the food industry, which began on 1 January and did not end until mid-April. As such, action was needed to provide a risk-based, proportionate approach to help avoid disruption to the supply of a wide range of food products.

3. Evidence and Discussion

3.1 Our objective is to seek a proportionate and risk-based UK-wide approach that seeks to balance protection of public health, consumer trust in the food system and wider consumer interests in maintaining food supply.

3.2 A range of potential scenarios associated with supply chain disruption are possible with outcomes that fall within two broad categories:

- labelling which lists ingredients that are not present in a food;
- labelling which does not list an ingredient that is present in the food.

3.3 In respect of the first category, the FSA and FSS issued guidance on 22 March to encourage local authorities to adopt a proportionate approach to enforcement in respect to issues arising due to the conflict in Ukraine. This could for example include products where an ingredient is declared on the label but not present in the food or present in different proportions.

3.4 Regarding the second category, the FSA and FSS have considered requests from industry for the substitution of sunflower oil with other vegetable oils, without declaration of those oils in the ingredients list of pre-packed foods, pending updated labelling, supported by consumer information such as over-stickering where possible, point of sale information, information provided online and, potentially, direct printing of information on packaging.

3.5 When considering our response, the FSA and FSS considered there was a need for a framework to support consistent decision-making that balances the food safety risk of the potential ingredient substitutions based on FSA/FSS rapid risk assessments and the impact on

consumer trust in food being what it says it is if labelling is incorrect against the impact on consumers caused by unavailability of a wide range of food products. We recognised that other relevant factors of consumer interest, including nutrition and environmental factors should also be taken into account.

FSA / FSS Tests

3.6 In April, FSA and FSS developed three tests based on the themes of 'food and feed safety', 'food security' and 'consumer information' to support decision-making. They are intended to provide a decision-making framework to ensure that the FSA continues to operate within the risk parameters agreed by the Board in March 2022 ([FSA 22-03-04](#)) on measures to support the food supply chain and help ensure food is safe and consumer interests are protected. It is proposed that the tests should be used when considering our responses to issues that arise from any future supply chain issues.

3.7 The tests were refined to take account of practical experience to make sure they are clear and flexible and futureproofed as far as possible. The tests were shared with the Board on 22 April and, after consultation with the Chair, published on 29 April as provisional tests (**Annex B**), pending a Board discussion and decision. At the same time, the news story on proportionate enforcement in respect of fully refined soybean, fully refined palm and fully refined coconut oils was published and associated guidance issued to local authorities.

3.8 The 'food and feed safety' and 'consumer information' tests are designed to ensure that, in line with our strategic objectives, food remains safe and what it says it is in the context of our response to the incident.

3.9 The 'food security' test takes into account the wider impact of disruption to food supply on consumers. It sets out the key considerations in decision-making, without excluding the possibility that other factors may also need to be considered and there may be occasions where some tolerance is needed around food being what it says it is where there are wider consumer interests at stake which can be mitigated in different ways.

3.10 For example, although we expect that in general, severe disruption would involve more than one producer/supplier, where a market is dominated by just one or two businesses, disruption to the operations of even one business could have national impact. Similarly, there may be a product that is a significant part of the diet for a specific group of consumers, perhaps for dietary, religious or cultural reasons, and although this may not meet the definition of a 'whole class of products' we may consider this as a factor when deciding whether labelling flexibility is appropriate to maintain food supply for this particular group.

3.11 The 'food security' test also defines 'serious detriment' as 'loss of access to food or loss of access to valued food'. This allows us to consider both the facts (is there a loss of access to food?) and consumer values (is there a loss of access to food that is important for consumers?)

Risk Assessment

3.12 FSA and FSS carried out rapid allergen risk assessments for several vegetable oils. For refined rapeseed oil, fully refined palm oil, fully refined coconut oil and fully refined corn/maize oil, the risk assessment estimated the frequency of allergic reactions to be very low, and for fully refined soybean oil it was considered to be negligible. If illness were to occur, it is likely to be mild. The risk associated with unrefined coconut oil to allergic individuals is likely to be higher than for fully refined coconut oil because it will contain more protein. However, we are not able to estimate the extent to which it will be of greater risk due to limitations in the available data. The Anaphylaxis Campaign website advises that unrefined coconut oil should be avoided by people allergic to coconut.

Other consumer interests

3.13 There are other relevant factors of consumer interest associated with potential substitutions, namely health and environmental factors. The impact of substitution on food information will differ between oils. Although the nutritional composition of soybean oil is broadly similar to that of sunflower oil, palm oil and coconut oil differ from sunflower oil in terms of their fatty acid composition, containing higher proportions of saturated fatty acids. The potential impacts on nutritional information and products that promote, via claims, the nutritional and health benefits of sunflower oil were considered.

3.14 The main environmental concerns are associated with palm oil, although there are also concerns associated with the environmental impact of soybean oil. Although palm oil can be produced responsibly and sustainably, there are recognised environmental concerns about its production and widespread use. Consumers are likely to be concerned by increased use of palm oil.

3.15 In the short term, and given the risks to food supply, FSA considered the risks in relation to health and the environment to be tolerable, particularly as industry would otherwise be able to reformulate product and use these ingredients at any time, provided the changes are reflected on the label. Due to the likelihood that the sunflower oil shortage may lead to prolonged use of oils other than sunflower oil after relabelling, we have noted the importance of monitoring developments to assess any impact it may have on our wider efforts to achieve healthier and more sustainable diets.

Legal Consideration

3.16 General and nutrition labelling requirements are set out primarily in retained EU law in Great Britain and in directly applicable EU law in Northern Ireland, in particular Regulation (EU) 1169/2011 on the provision of Food Information to Consumers, and in other Regulations addressing specific issues (e.g., hygiene, country of origin and gluten). For the most part, these requirements are prescriptive, and there is no existing legal power to modify or disapply them in circumstances where emergencies, such as pandemics or the outbreak of war, have an adverse effect on supply chains. Under Section 6 of the Food Standards Act 1999, the FSA has the power to provide advice, information or assistance to public authorities (including local authorities) on matters connected with food safety or other interests of consumers in relation to food.

Outcomes

3.17 A full overview of the response to the incident in relation to ingredient substitutions including information on policy responsibilities in the UK and the conclusions of the associated rapid allergen risk assessments is set out in **Annex A**. After very careful consideration of the available evidence, FSA and FSS have issued guidance to local authorities encouraging proportionate enforcement in respect of the substitution of sunflower oil with refined rapeseed, and fully refined soybean, fully refined palm, fully refined coconut and fully refined corn/maize oils without this being reflected on labelling in the short term. We also encouraged industry to consider using the healthier and more sustainable oils from this list if substituting their ingredients. For transparency, the FSA also issued News Stories and provided advice to consumers.

3.18 Risks to consumer trust and food not being what it says it is have been mitigated by industry efforts to provide on-pack labelling information by other means (e.g., ink-jetting, over-stickering); the provision of information to consumers in alternative ways including through point-of-sale information and websites; and the measures being temporary in nature to provide the necessary short-term support.

3.19 Proportionate enforcement has also been encouraged in relation to the substitution of sunflower lecithins (used as an emulsifier in food) with other lecithins without changes to existing labelling, provided they are not derived from any of the [14 major allergens](#). This issue arises only where labelling has been voluntarily applied which distinguishes (i.e., “sunflower lecithins”) as legislation requires “lecithin” or “E322”. Substitution with lecithins derived from any of the 14 allergens must be reflected on labelling before reformulated products can be placed on the market.

3.20 In May, the FSA and FSS considered how to further support industry to produce compliant packaging and labels making use of flexibilities in the existing legal framework, including a provision for grouping vegetable oils on ingredients lists in ‘varying proportions’ (see [reference 1](#)). After a detailed analysis of the legislation by FSA, FSS and Defra in consultation with departmental lawyers, guidance was issued to industry and local authorities explaining relevant legislation along with principles to guide the approach to labelling when the proportion of vegetable oils in a product is likely to vary due to difficulties sourcing oils.

3.21 Most recently, the FSA and FSS applied the tests to other oils on which rapid allergen risk assessments have been completed and it was decided that proportionate enforcement should be encouraged in respect of substitution of sunflower oil with fully refined corn/maize oil without this immediately being reflected on labelling. A communication to local authorities in this regard was issued on 31 May. This widening of the range of oils that can be considered for substitution will facilitate use of healthier and more sustainable oils to replace sunflower oil.

3.22 Whilst our rapid allergen risk assessment on cottonseed oil indicated that the allergen risks were tolerable, that oil did not meet the FSA/FSS tests with regard to food safety because it is not commonly used in the UK and UK consumers have therefore had little exposure to it which increases the probability of unpredictable effects such as intolerance. As such a decision was taken not to encourage proportionate enforcement in respect of the substitution of sunflower oil with cottonseed oil without this immediately being reflected on labelling.

Guidance to Local Authorities / Proportionate Enforcement

3.23 The guidance that has been issued to local authorities in relation to the substitution of sunflower ingredients facilitates consistency and enables local authorities to prioritise the enforcement of food law during this period of supply chain disruption and ensure that limited enforcement resource remains focused on matters that present the greatest risks to consumers. The guidance does not in any way override the statutory responsibilities local authorities have to enforce food/feed law or the need for them to judge how to exercise those responsibilities. With the guidance also being available to industry, there is also transparency about the compliance environment in which they are operating.

3.24 A notifications template was provided to local authorities to enable them to report to the FSA or FSS where they are aware of substitution of ingredients in line with the guidance that we have provided. A summary of information from the notifications received is at **Annex C**.

FSA Engagement with other Government Departments and the Devolved Governments

3.25 The FSA has worked very closely with officials in Defra and DHSC throughout to understand the challenges that the food industry is facing, the potential effects on food supply and labelling and to manage the interfaces between departmental responsibilities as set out in **Annex A**. The Chair has corresponded with Defra and Health Ministers to update them on developments.

3.26 There has been extensive engagement and correspondence between the FSA Welsh Government policy officials and Welsh Ministers, including useful meetings between the FSA Chair and Deputy Minister for Mental Health and Wellbeing while the tests were being developed.

Welsh Government views have been considered throughout and have informed the management of the incident response. Communications and updates have also been provided in Wales to local authorities, industry and the Welsh Food Advisory Committee (WFAC).

3.27 The FSA has engaged stakeholders in Northern Ireland. This has included letters from the FSA Chair to the Northern Ireland Ministers for Health and Agriculture, communications to district councils and industry trade associations. As EU law applies directly in Northern Ireland under the terms of the Northern Ireland Protocol, notifications have been sent to the European Commission on the actions that have been taken in the UK in relation to Northern Ireland.

4. Return to the Status Quo on Food Labelling

4.1 Accurate information about what is in food is vital to consumer trust and confidence. The FSA and FSS have been clear with industry that labelling must return to compliance at the earliest possible date. Individual requests for proportionate enforcement of labelling regulations must be agreed with enforcement authorities on a case by case basis, and our guidance for enforcement authorities is clear that proportionate enforcement must not be open-ended and a plan for returning to compliance by a specific date should be agreed in each case.

4.2 In the early months of disruption to supply it was not possible to predict with certainty the likely trajectory of global oil supplies. Our focus was to put in place an approach that would allow industry time to adapt, whilst working to understand medium and longer-term risks. As set out above, we have also provided further guidance about how labelling regulations should be applied, which will support industry to take decisions to future-proof labels as much as possible. We have also taken into account lead times for the production of new labelling and packaging, and the ongoing pressure on packaging supplies caused by increased demand and volatility in supply of materials.

4.3 We are working towards an end-date of no later than 31 October 2022 by which we expect all businesses to have returned to compliance. Our guidance to local authorities would be amended accordingly to ensure that all production of food which contains a substituted oil not listed on the label should have ceased by that point in time. It should be noted that foods containing oils that have been substituted without labelling may remain on the market, so information for consumers should continue to be made available.

4.4 A final end-date will be agreed by the end of June, after further consultation with industry, and finalising our agreed planning assumptions about oil supplies and lead-times for replacing labels and packaging. We will be keeping progress under review through our regular dialogue and engagement with industry, in partnership with Defra and local authorities who are keeping us informed on what is happening on the ground.

4.5 In setting a firm end-date, we recognise that there may be some additional costs and disruption for some businesses that may need more time to comply or, at short notice, are not able to procure the ingredients and/or packaging necessary for compliance. We recognise the challenges for industry, but it is not possible or desirable to smooth or remove all of the impact of the conflict in Ukraine. It is overwhelmingly in the interests of consumers that labels are accurate, and we judge that industry has had reasonable time to adapt and prepare. This approach is also in line with available information about the approach in other countries where labelling flexibility has been granted.

5. Conclusions

5.1 The Board is asked to:

- note the consolidated update on the FSA/FSS response at Annex A.
- discuss the tests at Annex B and agree that they should be adopted and applied in future when considering action to address issues arising from shocks to the food supply chain.

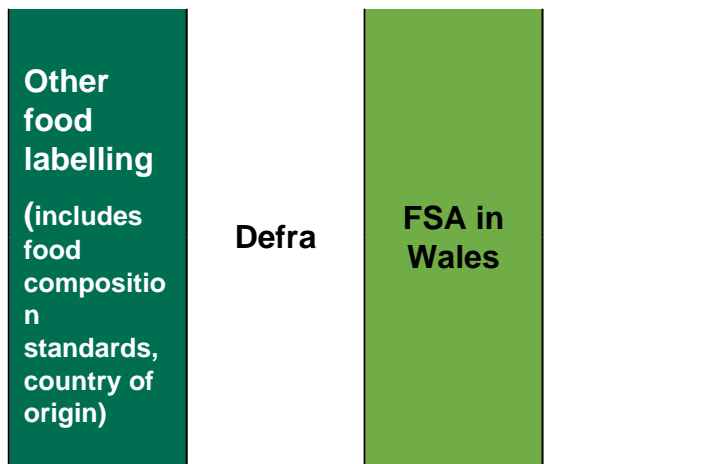
Annex A

Summary of FSA/FSS Response to Sunflower Oil Supply Chain Disruption Arising From the Conflict in Ukraine in Relation to Ingredient Substitution and Labelling

Policy Responsibilities: Labelling, Composition and Nutrition

The FSA has policy responsibility for food safety labelling including allergen labelling. Food labelling and composition policy, where not related to food safety, rests with the Department for Environment, Food and Rural Affairs (Defra) in England and with the FSA in Wales and Northern Ireland. Nutrition labelling policy rests with the Department of Health and Social Care (DHSC) in England, the Welsh Government and with the FSA in Northern Ireland. European Union (EU) food labelling and nutrition labelling law applies directly in Northern Ireland under the terms of the Northern Ireland Protocol, although the FSA retains policy responsibility for areas in which national rules are permitted under EU law. In relation to Scotland, FSS has policy responsibility for all these areas.

	Food Standards Agency (FSA)			Food Standards Scotland (FSS)
	England	Wales	Northern Ireland	
Food labelling (safety, allergy)	FSA			FSS
Nutrition standards	Department of Health and Social Care	Welsh Government	FSA in Northern Ireland	
Nutrition food labelling				



Incidents Approach / Four Country Working

FSA/FSS decided to adopt an FSA-led incidents approach in line with the FSA's [Incident Management Plan for Non-Routine Incidents](#) which defines the FSA's response to a non-routine incident where the FSA takes responsibility, either by statutory requirement (as set out in the Food Law Code of Practice), in its role of Lead Government Department (LGD), following an actual or potential threat to the safety, quality or integrity of food and/or animal feed, or as a supporting department.

FSA/FSS Tests

The FSA and FSS developed provisional tests to apply when considering proposals for substitution which can be found at **Annex B**. This paper invites the Board to discuss and agree the tests and provides more detail in paragraphs 3.6 – 3.11.

Refined Rapeseed Oil

The proposed immediate term response sought by industry around the use of alternative oils was substitution of sunflower oil with refined rapeseed oil (which has technical properties and a nutritional profile similar to that of sunflower oil) without this being reflected on the labelling of prepacked foods in the short term, pending the necessary relabelling. Information to consumers would be provided in alternative ways.

The FSA and FSS carried out a rapid risk assessment on the risk of allergic reactions in UK consumers if sunflower oil is substituted with refined rapeseed oil and estimated the frequency of allergic reactions to refined rapeseed oil to be very low (for example, very rare but cannot be excluded) and the severity of illness in relation to allergic reactions to refined rapeseed oil to be negligible.

Based on the rapid risk assessment, and recognising the similar nutritional profile refined rapeseed oil has with sunflower oil mitigating impact on nutrition labelling, the FSA and FSS made a decision to write to enforcement authorities encouraging proportionate enforcement in respect of the substitution of sunflower oil with refined rapeseed oil without this immediately being reflected on labelling.

Labelling inaccuracies arising from substitution are mitigated by businesses adjusting labelling within the shortest possible time to help ensure that consumers retain trust in the food system; businesses making all possible endeavours to provide on-pack labelling information by other means (e.g., ink-jetting, over-stickering); and businesses providing consumers with alternative means of finding out what is in their food e.g., through point of sale information, websites etc.

A communication was sent to local authorities on 22 March and a [news story](#) and the [rapid risk assessment](#) were published on the FSA and FSS websites on 24 March.

FSA/FSS Rapid Risk Assessment on Further Vegetable Oils

In April, intelligence from Defra and industry suggested that use of refined rapeseed oil to replace sunflower oil was very likely to put pressure on that commodity and unlikely to mitigate the disruption. Rapeseed oil is impacted by the conflict both directly with an estimated 5%-20% of UK supplies of this commodity coming from Ukraine, and indirectly as global industry looks to rapeseed oil as an alternative to sunflower oil.

As such, it was necessary to consider the substitution of sunflower oil with further oils. The FSA and FSS therefore proactively conducted further Rapid Risk Assessments on the risk to UK consumers in terms of allergy if sunflower oil was to be substituted in food with palm oil, palm olein, palm kernel oil, fully refined soybean oil, cottonseed oil, coconut oil, corn/maize oil and olive oil and cold-pressed olive oil) without these oils being labelled on the packaging.

Summary of FSA/FSS Rapid Allergen Risk Assessment Outcomes on Substitution of Sunflower Oil with other oils

Ingredient to be Substituted	Substituted with	FSA Allergen Rapid Risk Assessment: Frequency of allergic reactions	FSA Allergen Rapid Risk Assessment: Severity of illness in relation to allergic reactions	FSA Allergen Rapid Risk Assessment: Level of uncertainty
Sunflower Oil	Refined Rapeseed Oil*	Very low	Negligible	Medium
Sunflower Oil	Fully Refined Soybean Oil*	Negligible	Negligible	Low
Sunflower Oil	Fully Refined Palm Oil*	Very Low	Negligible	Medium
Sunflower Oil	Fully Refined Coconut Oil*	Very low	Negligible	Medium
Sunflower Lecithin	Alternative lecithins not derived from any of the 14 major allergens.	Risk assessment not required due to existing flexibilities in legislation	N/A	N/A
Sunflower Oil	Fully Refined Corn/Maize Oil*	Very low	Negligible	Medium
Sunflower Oil	Fully Refined Olive Oil	Very low	Negligible	Medium
Sunflower Oil	Cold-Pressed Olive Oil	Very Low	Negligible	Medium
Sunflower Oil	Palm Olein	Very low	Negligible	Medium
Sunflower Oil	Palm Kernel Oil	Very low	Negligible	Medium

*Proportionate enforcement has only been encouraged in respect of the substitution of sunflower oil with these oils

Sunflower Lecithins

Challenges around supply of sunflower lecithin (used in food as emulsifier) were identified and the possibility of substitution with other lecithins was raised. The relevant legislation, Retained EU Regulation 1169/2011 and Regulation (EU) 1169/2011 applying directly in Northern Ireland under the terms of the Northern Ireland Protocol, does not require the origin of lecithins to be specified on labelling unless they are derived from any of the 14 major allergens which must be declared. Where a FBO uses lecithins that are not derived from any of the 14 allergens and labels these with the general additive description of 'lecithin' or 'E322', they may be safely and legally substituted for each other without the need for any labelling changes. However, where a food business has voluntarily stated the use of sunflower lecithin, substitution of this with lecithin from

another source without amending the label would mean incorrect information being provided to consumers and present a food safety issue if the substituted lecithin is derived from any of the 14 allergens.

FSA and FSS considered that it would be appropriate to encourage local authorities to take a proportionate enforcement approach in relation to the substitution of sunflower lecithin with lecithin of a different origin where voluntary labelling currently indicates sunflower as the source provided the substituted lecithin is not derived from any of the 14 allergens. Accordingly, a second communication was issued to local authorities on 14 April encouraging proportionate enforcement in this regard.

Fully Refined Soybean, Palm and Coconut Oils

Intelligence from Defra suggested that due to pressures on supply of rapeseed oil refined soybean oil and palm oil were likely to be sought by industry as substitutes for because of the functional properties needed for specific food products or production methods.

The FSA and FSS considered the position in relation to substitution of sunflower oil with soybean, palm and coconut oils without labelling, the latter being raised via a local authority having been approached by a business. On the basis of the rapid risk assessment, the FSA and FSS concluded that the substitution of sunflower oil with fully refined palm oil, fully refined soybean oil or fully refined coconut oil without these substitutions being reflected on labelling for a short period, would not present any unacceptable food safety risks to consumers.

In line with our commitment to food that is healthier and more sustainable in our new strategy for 2022-27, as well as food safety, we also took into account wider consumer interests such as the nutritional profiles of the different oils and information on sustainability to ensure that consumers retain trust in the food system. Having weighed all the above considerations and applied the provisional tests, the FSA and FSS considered that it would be appropriate to encourage local authorities to take a proportionate enforcement approach in relation to these oils. We encouraged industry to consider using the healthier and more sustainable oils if substituting their ingredients.

A third communication was sent to local authorities on 29 April to update the FSA's original guidance of 22 March. This was accompanied by a [news story](#) and the [rapid risk assessment](#) of those further vegetable oils, which were published on the FSA and FSS websites on 29 April and 12 May respectively.

Vegetable Oils in Varying Proportions Labelling

In May, the FSA and FSS considered how to further support industry to produce compliant packaging and labels making use of flexibilities in the existing legal framework, including a provision for grouping vegetable oils on ingredients lists in 'varying proportions' (see [reference 1](#)).

After a detailed analysis of the legislation by FSA, FSS and Defra in consultation with departmental lawyers, guidance was issued to industry and to local authorities in a fourth communication on 20 May explaining relevant legislation along with principles to guide the approach to labelling when the proportion of vegetable oils in a product is likely to vary due to difficulties sourcing oils.

Fully Refined Corn/Maize Oil

Most recently the FSA and FSS decided after careful consideration that proportionate enforcement should be encouraged in respect of substitution of sunflower oil with fully refined corn/maize oil. The fifth communication was sent to local authorities on 31 May to update the

FSA's guidance of 22 March and 29 April and a [news story](#) and a [rapid risk assessment](#) report were published on 1 June. This widening of the range of oils that can be considered for substitution will facilitate use of healthier and more sustainable oils.

Further support for Industry

We will also be publishing a document to help inform industry choices when reformulating products in response to the shortages, facilitate consideration of the use of healthier and more sustainable oils and support the return to the labelling status quo. This document will bring together information from our allergen rapid risk assessments and consumer research and provide information on the nutritional content of oils and their sustainability.

Communications to Local Authorities

To date, the FSA has issued five communications to local authorities via the Smarter Communications platform (22 March, 14 April, 29 April, 20 May and 31 May) in connection with the incident. These have also been made available to industry.

These letters provided guidance in response to the emerging need by industry to reformulate products at short notice in response to supply chain issues with sunflower oil, where it may not be possible to reflect the reformulation on the current product labelling. In all letters we stressed that, in instances where changes in food supply chains occur at short notice, our overriding concern is to ensure that consumer safety is protected.

We have requested that local authorities adopt a proportionate approach to enforcement where appropriate, considering the unforeseen circumstances which may lead to supply chain disruption. We have emphasised the importance of maintaining a balance between reasonable and proportionate enforcement of food information requirements and protecting consumer interests and overall consumer confidence in the food industry, whilst ensuring the ongoing provision of food throughout the supply chain.

We also provided a notifications template to enable LAs to report where they are made aware of substitution in line with the guidance on specific ingredients set out in our letters. A summary of information from the notifications received is at **Annex C**.

In supporting local authorities with their enforcement approach, we have provided a list of factors for them to consider on a case-by-case basis around whether a proportionate and pragmatic approach to enforcement should be taken:

- can the business re-label immediately to reflect the change in ingredient?
- if they cannot re-label, is the reformulation or substitution of the ingredient necessary as a result of exceptional circumstances, and does the need to ensure the supply of food justify the need to reformulate?
- does the reformulation negatively impact the consumer's ability to make safe and informed food choices, taking into account the risk assessment provided?
- can the traceability of the food be assured to enable products to be effectively removed from the market if a food safety issue is identified?• Could the reformulation mislead the consumer as to the nature, substance or quality of the food, or be used to mask fraudulent activity or achieve unfair commercial gain by unscrupulous businesses?
- is the ingredient being substituted likely to be a factor in a consumer's decision to purchase the food, for example a 'sunflower spread' that does not contain sunflower oil?
- has the food business operator taken sufficient steps to mitigate the potential risk to consumers as a result of the amendment to the product's composition?
- has the business taken reasonable steps to ensure that the general requirements relating to the provision of food information to consumers are maintained as far as possible? This

includes applying alternative compliant labelling information that reflects the substitution of ingredient(s) as soon as practicable, for example by over-stickering or ink jetting.

- has the business put in place mechanisms to respond to individual customer enquiries about individual products and batches of these where substitution may have taken place, for example, by publishing these details on its website or putting a system in place to make it available through its customer services mechanisms?
- is the Food Business Operator taking all reasonable steps to re-align labelling of the affected products with the legislative requirements in as short a period as possible?

Annex B

Provisional FSA/FSS Tests

These provisional tests have been developed to support decision-making around interim measures to support the food supply chain and will help ensure food is safe, consumer interests are protected, and the food supply chain is not disrupted.

Test One: Food and Feed Safety

FSA/FSS must be satisfied, based upon the available scientific evidence, that the food or feed safety risk to the general population and to susceptible individuals is negligible or very low and can be managed by appropriate mitigating actions.

Test Two: Food Security

FSA/FSS must be satisfied, based upon the available evidence, that disruption to the UK food and/or feed supply will be significant, extensive and with a risk of lasting for an extended period, so that consumers will suffer serious detriment from this disruption through loss of access to food.

This is likely to mean, for example, that disruption extends beyond a single product or producer, and/or covers a whole class of products or very many products across different product classes and therefore there are no alternative choices for consumers.

When considering the detriment to consumers we will take into account the overall impact on food availability; we will also consider the need for consumers to have access to nutritious, culturally appropriate food, and the desirability of maintaining a supply of widely consumed foods that form a substantial part of the UK diet.

Test Three: Consumer information

Where labels do not comply with regulations, food businesses must provide up to date and accurate information to consumers in alternative formats. Food businesses must take all possible action to make the necessary changes to labels in as short a time as possible and must agree with their local enforcement authority the date by which this is to be achieved and maintained.

Annex C

Summary of Substitution Notifications from Local Authorities

The total number of notifications, based on information received from local authorities as of 30 May was **57**, which relate to approximately **306 product lines**. In some instances, specific product information has not been submitted and instead it has been noted that products are too

numerous to state and a full product list is not available.

Summary of Reformulations

Reformulation Type	Number
Not considered to fall in scope of guidance	2
Substitution of sunflower lecithin with rapeseed oil lecithin	3
Removal of sunflower oil from blend, and increase the quantity of fully refined palm oil	1
Removal of sunflower oil from blend, and increase quantity of refined rapeseed oil and fully refined palm oil	2
Substitution of refined sunflower oil with fully refined palm oil	1
Substitution of refined sunflower oil with refined rapeseed oil	47
Substitution of sunflower oil with fully refined coconut oil	1
Substitution of sunflower and linseed oil with refined rapeseed oil	1
Substitution of refined sunflower oil with refined rapeseed oil and/or fully refined soybean oil.	1
Total	59*

*One notification contained three reformulations.

Product types affected by substitution

A wide variety of products have been affected, including Crisps, Soups, Pastries, Pasta, Stock pots, Chocolate products, Fishcakes/Fish pies, Pancakes, Curries, Frozen potato products (chips etc), Vegetarian products (veggie burgers etc), Olives.

References

1. Retained Regulation 1169/2011 the provision of food information to consumers and Regulation (EU) No 1169/2011 which applies directly in Northern Ireland: Article 18 (List of ingredients) engaging Annex VII (Part A) provisions 7 and 8 in Annex VII (Part A).