

## The labelling of GM foods in South Africa

### The legal perspective:

South Africa has had compulsory GM labelling regulations in place since 2004 when the Department of Health (DOH) introduced labelling regulations under the Foodstuffs, Cosmetics and Disinfectants Act (1972) – Regulation 25. The regulation states that “foodstuffs produced through genetic modification – where they differ significantly from existing foodstuffs in terms of their composition, nutritional value, mode of storage, preparation or cooking, allergenicity or genes with human or animal origin – must be labelled”. As all current GM foods are considered substantially equivalent, i.e. they do not differ from the conventional counterpart in any of the aspects listed, these regulations have never been triggered and therefore no GM containing foods on the market were labelled under this regulation.

In contrast, the more recent Consumer Protection Act (CPA, 2008) Regulation 293 from the Department of Trade and Industry (dti) states that ALL GM goods must be labelled. So, where Regulation 25 is based on health and food safety concerns, Regulation 293 is purely value-based, hinging on the consumer’s intrinsic right to information.

According to the CPA regulations, food producers, importers and packagers currently have to choose one of three mandatory labels for GM foods: (i) “*containing GMOs*” where the GM content is at least 5%; (ii) “*produced using genetic modification*” for food produced directly from GMO sources; or (iii) “*may contain GMOs*” when argued that it is scientifically impractical and not feasible to test food for GM content. Voluntary labels include: (i) “*does not contain GMOs*” where the GM content is less than 1%; (ii) “*GM content is less than 5%*” where GM content is between 1% and 5%; and (iii) “*may contain genetically modified ingredients*” if it can’t be detected.

It is important to realise that these regulations impose the labelling of individual ingredients in the ingredients table and not a large label for the whole product as consumers are used to with the current, more obvious “non-GM” marketing labels.

**The philosophical perspective:**

If GM labelling as defined in the CPA regulations is based on the premise of a consumer's intrinsic right to information, why is labelling a controversial issue? In short – because it asserts the obligation to distinguish between products, based on an esoteric value decision alone. So, although the right of a consumer to information is not disputed, the value of that knowledge is, especially in light of the fact that the system is open to abuse.

As the CPA regulations obligate the labelling of GM-derived products irrespective of the fact that they may not be distinguishable in any concrete manner from a "conventional" counterpart, it is considered a value-system-based distinction by many. Value-system-based labelling of food products is of course nothing new - consider, for example, religion-based labels such as "Halal" and "Kosher" or ethics-based labels such as "free range" or "organic". But, these are all voluntary labels managed and maintained by relevant interest groups to give their particular constituencies a choice at their own cost, not mandatory legislative regulations impacting all consumers.

Still, why not slap on a GM label and get it over with? The two main reasons are cost and unfair discrimination. As the regulations stand, they would obligate the introduction of separate value chains and the testing of all possible GM-containing products, which will have considerable cost implications for the products on the market and the great majority of consumers who use them. For example, 87% of South Africa's locally produced maize is currently GM. The direct cost increase to the consumer depends on many factors, but the average is calculated to be between 9% and 12%. This implies that the majority of the market will bear the costs of maintaining a value-system-based choice of a minority.

In addition, industry fears that these labels will be used to promote unfair discrimination under the guise of "consumer choice". GM technology and, in particular, GM-derived foods have long been the target of destructive campaigns organised by NGOs and individuals with self-declared "environmental" and/or "social" agendas. The information presented by the anti-GM frame is strongly disputed by the industry frame, especially in light of the fact that GM technology is regulated, which ensures that all GM products have to pass a rigorous biosafety risk assessment before they can be commercialised. So, although GM foods carry an official stamp of approval, the disputed information in the public domain can still be used to influence consumer choices unduly and a label will make what boils down to unfair discrimination much easier.

Finally, although labelling is a particularly contentious issue for GM foods, it is very seldom discussed in terms of GM-derived medicines or other industrial applications with similar safety considerations. It could therefore be argued that GM food labelling is just being exploited in support of a particular agenda because it is an easy and very public target.

[Please refer to the FST magazine article "GM food labelling - is there a solution to the impasse?" for more details on this topic.](#)