

Italian Sounding and Consumer Protection in European Agri-Food Law

[*Marco Mariani*¹]

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Abstract: This article examines the relationship between Italian Sounding, the origin of raw materials and consumer protection in European agri-food law through the Lidl litigation, which culminated in the judgment of the Court of Justice of the European Union of 30 April 2026 (Case C-301/25). Starting from the marketing of the *Italianno* and *Combino* pasta products, the study analyses the interaction between Regulation (EU) No 1169/2011 on food information and Directive 2005/29/EC on unfair commercial practices. Particular attention is devoted to the role of the origin of the primary ingredient in consumer decision-making and to the legal significance of packaging and origin-related commercial communication. The article argues that the Lidl case reflects a broader evolution of European food law, characterised by a gradual shift from the formal accuracy of information towards the protection of consumer perception and the emergence of a principle of substantive transparency in food communication.

Keywords: Italian Sounding; food information; origin of raw materials; consumer protection; unfair commercial practices; food labelling; Made in Italy; transparency; Regulation (EU) No 1169/2011; Directive 2005/29/EC.

1. Introduction

1.1. The Significance of Origin in Contemporary Agri-Food Markets

The origin of food products has become one of the principal factors of competitive differentiation within contemporary agri-food markets. Whereas legislative attention traditionally focused on composition, safety standards, and nutritional characteristics, consumer preferences have progressively shifted towards the geographical provenance of raw materials and the territorial identity of food production.

This development cannot be explained solely through economic considerations. Origin has increasingly come to embody a plurality of values extending beyond the product itself, including quality, authenticity, sustainability, cultural identity, food safety, and the reliability of production

¹ Adjunct Professor of Land Use Law and Public Procurement, University of Milan, A.Y. 2025-2026; Attorney at Law; The opinions expressed in this article are solely those of the Author.

chains. Consumers are now frequently influenced by intangible factors that find a particularly effective expression in geographical origin. In the Italian context, this phenomenon assumes a distinctive significance. Italian agri-food production represents one of the clearest examples of the interconnection between territory, culture, and economic activity. The international reputation of Italian food products derives not only from their objective qualitative characteristics but also from their capacity to evoke a specific gastronomic tradition, a distinctive landscape, and a broader cultural heritage.

The economic value attached to Italian identity has, however, encouraged the proliferation of commercial practices aimed at appropriating that reputational capital without any corresponding connection to the Italian production system. The phenomenon commonly referred to as *Italian Sounding* constitutes the most evident manifestation of this dynamic. Through the use of Italian names, symbols, colours, images, and geographical references, products lacking any genuine connection with Italy are nonetheless able to benefit from the commercial attractiveness associated with Italian agri-food excellence. Within this framework, increasing attention has been devoted to the origin of raw materials. Consumers are no longer concerned exclusively with the place where a product is manufactured or packaged; rather, they increasingly seek information relating to the earliest stages of the production chain. The provenance of durum wheat used in pasta production provides a particularly significant illustration of this development. The issue extends beyond the mere accuracy of information and raises broader questions concerning consumer expectations, corporate communication strategies, and the protection of fair competition within agri-food markets.

1.2. From Product Protection to the Protection of Consumer Perception

The evolution of European food law reveals a gradual expansion of the interests protected by legal regulation.

At an earlier stage, regulatory attention was directed primarily towards the product itself and the information accompanying it. The fundamental objective was to prevent consumers from receiving false or inaccurate information concerning the characteristics of food products. Legal scrutiny therefore focused on the content of information and its correspondence with objective reality. Practical experience has nevertheless exposed the limitations of a purely formal approach. A commercial communication may be factually accurate and yet generate a distorted representation of economic reality. Contemporary marketing techniques demonstrate that consumer perception is rarely shaped by a single item of information. Rather, it emerges from the interaction of multiple communicative elements that collectively contribute to the construction of a commercial message.

Trade marks, colours, images, geographical references, advertising slogans, and graphic design choices all participate in shaping the consumer's understanding of a product. The persuasive effect often derives less from individual mandatory disclosures than from the overall communicative context within which those disclosures are presented. The Lidl case must be understood against this background. The controversy did not concern the absence of information regarding the origin of the wheat, nor did it involve objectively false statements appearing on the packaging. Instead, the central issue concerned the relationship between those disclosures and the broader set of elements emphasising the Italian identity of the product. The question examined by the Italian Competition Authority, the administrative courts, and ultimately the Court of Justice of the European Union therefore concerned the manner in which consumers construct their perception of food origin.

From this perspective, the significance of the case extends well beyond the pasta sector. It provides a valuable opportunity to observe the transition from a regulatory model centred upon the formal accuracy of information towards one that increasingly emphasises the overall perception generated by commercial communication. The focus of legal protection consequently shifts from the product itself to the consumer and, more specifically, to the mechanisms through which consumers form their economic decisions.

1.3. Scope and Structure of the Article

The dispute involving Lidl provides an opportunity to address a number of issues of broader relevance within contemporary European agri-food law.

The first concerns the legal significance that should be attributed to the origin of raw materials within the framework of consumer information. The second relates to the relationship between sector-specific food information rules and the general regime governing unfair commercial practices. The third concerns the role played by references to geographical origin within modern marketing and branding strategies. The interest of the case lies primarily in the fact that it stands at the intersection of several regulatory domains. Issues relating to food labelling overlap with consumer protection, competition law, the promotion of national agri-food production, and the broader challenge of combating Italian Sounding practices. The judgment delivered by the Court of Justice on 30 April 2026 represents the culmination of this legal trajectory and provides guidance that is likely to influence sectors far beyond the specific dispute at issue.

The analysis begins with an examination of the phenomenon of Italian Sounding and its economic and legal implications. It then reconstructs the European regulatory framework governing food information and unfair commercial practices. The central part of the article is devoted to the Lidl

litigation, tracing its development from the proceedings initiated by the Italian Competition Authority to the preliminary ruling delivered by the Court of Justice.

The final section seeks to determine whether recent judicial developments support the emergence of a broader principle of substantive transparency in food information law. More specifically, it explores whether European law is progressively moving away from a purely formal conception of informational accuracy towards an approach that takes into account the actual perception of consumers and the overall impact of commercial communication on consumer decision-making.

2. Italian Sounding and the Protection of Italian Agri-Food Identity

2.1. Concept and Defining Features of Italian Sounding

Among the challenges affecting contemporary agri-food markets, few phenomena have attracted as much attention from policymakers, producers and consumer organisations as Italian Sounding. The expression refers to the use of names, images, symbols, colours, geographical references or linguistic elements capable of evoking an Italian origin, tradition or cultural affiliation in relation to products that have no substantial connection with Italy.

Unlike counterfeiting in the strict sense, Italian Sounding does not necessarily involve the unlawful reproduction of protected trade marks, geographical indications or other intellectual property rights. Its distinctive feature lies in its ability to exploit the reputational value associated with Italian products without making statements that are manifestly false. The commercial message is often constructed through indirect references that suggest, rather than expressly claim, an Italian provenance. The effectiveness of these practices derives from the extraordinary international reputation enjoyed by Italian agri-food production. Over time, Italian cuisine, regional food traditions and quality schemes have generated a powerful economic asset whose value extends well beyond the legal boundaries of geographical indications and collective marks. Italian Sounding capitalises on this reputational heritage by creating an associative link between a product and the broader image of Italian excellence. From a legal perspective, the phenomenon raises questions that cannot be adequately addressed through the traditional categories of intellectual property law alone. The issue frequently concerns the capacity of commercial communication to influence consumer expectations through evocative techniques that operate at the margins of legality. Consequently, the analysis of Italian Sounding increasingly intersects with consumer protection law, food information law and unfair commercial practices regulation.

2.2. Counterfeiting, Evocation and Misappropriation of Italian Identity: Distinct Legal Phenomena

A clear distinction must be drawn between counterfeiting, evocation and the broader phenomenon of misappropriation of Italian identity. Counterfeiting presupposes the unlawful reproduction of a protected sign and generally involves the violation of intellectual property rights. In the agri-food sector, such conduct may concern registered trade marks, protected designations of origin (PDOs), protected geographical indications (PGIs) or other legally protected distinctive signs. The infringement is usually identifiable through an objective comparison between the protected sign and its imitation. Evocation occupies a more nuanced position. European case law has long recognised that a protected geographical indication may be unlawfully evoked even where the protected name itself is not reproduced. The decisive factor is whether the presentation of a product is capable of triggering, in the mind of the average consumer, a sufficiently direct and unambiguous association with a protected product.

Italian Sounding extends beyond both categories. In many instances, neither a protected geographical indication nor a registered trade mark is involved. The commercial strategy relies instead on the broader cultural and reputational value attached to Italian identity. References to the Italian flag, stereotypical imagery, Italian-sounding names or references to Italian culinary traditions may collectively create an impression of Italian origin without infringing any specific intellectual property right.

The distinction is not merely theoretical. Different legal regimes become applicable depending on the nature of the conduct at issue. Counterfeiting primarily engages intellectual property enforcement mechanisms. Evocation often falls within the specialised framework governing geographical indications. Italian Sounding, by contrast, frequently raises questions concerning misleading commercial communication and consumer decision-making, thereby bringing consumer protection law into the foreground.

2.3. The Economic Scale of Italian Sounding in International Markets

The economic significance of Italian Sounding explains why the phenomenon has become a recurring concern in both public policy and legal scholarship. International demand for Italian food products has expanded steadily over recent decades, transforming Italian agri-food production into one of the most valuable components of the national economy. The reputation of Italian products generates considerable competitive advantages in foreign markets, but it simultaneously creates incentives for producers operating outside Italy to appropriate, directly or indirectly, the commercial appeal associated with Italian identity.

Empirical research conducted in foreign markets confirms the extensive diffusion of products that evoke Italian origin without possessing any genuine connection to Italian production chains. The phenomenon is not confined to isolated instances or marginal markets. Rather, it affects a broad range of product categories and is present across geographically diverse jurisdictions. The commercial success of such products demonstrates that consumers frequently associate Italian references with superior quality, authenticity and reliability.

From an economic perspective, Italian Sounding produces effects that extend beyond individual purchasing decisions. By diverting demand away from authentic Italian products, it may alter competitive conditions in international markets and reduce the capacity of Italian producers to capture the full economic value generated by their reputational assets. At the same time, the widespread circulation of products presenting ambiguous references to Italian identity may weaken the informational function that origin-related indications are intended to perform. For these reasons, the phenomenon has gradually moved from being regarded as a purely commercial issue to being recognised as a matter involving consumer protection, market transparency and the preservation of cultural and economic heritage.

2.4. Pasta Products Among the Most Affected Sectors

Among the various sectors affected by Italian Sounding practices, pasta occupies a particularly significant position. Pasta is one of the products most closely associated with Italian culinary identity. In international markets, it functions not merely as a food product but also as a cultural symbol. This symbolic dimension enhances its attractiveness while simultaneously increasing its vulnerability to commercial strategies based on the evocation of Italian origin.

The global success of Italian pasta has encouraged the proliferation of products employing names, packaging designs and visual elements intended to establish an association with Italy. Such strategies may be adopted by foreign manufacturers with no connection to Italian production systems, but similar issues may also arise in relation to products genuinely manufactured in Italy when the origin of the primary agricultural raw material differs from that suggested by the overall commercial presentation.

The controversy surrounding the Lidl product lines illustrates this latter scenario. The dispute did not concern the geographical location of the manufacturing process, which was linked to Italy, but rather the relationship between the strong emphasis placed on Italian identity and the actual origin of the wheat used in production. The case therefore highlights how the concept of origin may operate at different levels of the supply chain and how consumer expectations may extend beyond the place of processing to encompass the provenance of primary ingredients.

For this reason, the pasta sector offers a particularly suitable context within which to examine the broader relationship between food information, commercial communication and consumer perception.

2.5. Origin as a Competitive Factor in Agri-Food Markets

Origin has progressively evolved from a descriptive attribute into an autonomous competitive factor. In modern agri-food markets, geographical provenance frequently influences purchasing decisions independently of objective product characteristics. Consumers increasingly regard origin as an indicator of quality standards, environmental sustainability, production methods, cultural authenticity and food safety. This tendency has transformed origin into a valuable economic asset capable of generating significant competitive advantages. The legal relevance of origin is therefore no longer limited to the prevention of deceptive practices. Origin-related information contributes to the functioning of competitive markets by reducing information asymmetries and enabling consumers to make informed choices. Where origin influences purchasing behaviour, the accuracy and transparency of origin-related claims become essential conditions for fair competition.

This development explains the growing attention devoted by European legislation and case law to the presentation of origin-related information. The issue is no longer confined to situations involving objectively false statements. Increasingly, legal scrutiny focuses on whether the overall presentation of a product is capable of creating an accurate understanding of its characteristics and provenance.

The Lidl litigation reflects this broader transformation. At its core lies the recognition that the competitive value attached to origin may be influenced not only by explicit declarations but also by the cumulative effect of visual, linguistic and symbolic elements incorporated into commercial communication. The legal significance of the case therefore extends beyond the specific circumstances of the dispute and touches upon a more general question: how should the law respond when the commercial value of origin is shaped not by what is expressly stated, but by what consumers are led to perceive?

3. The European Regulatory Framework

3.1. The Objectives of Regulation (EU) No 1169/2011

Regulation (EU) No 1169/2011 constitutes the cornerstone of the contemporary European framework governing food information. Adopted with the objective of consolidating and rationalising a fragmented body of legislation, the Regulation seeks to ensure a high level of consumer protection while safeguarding the proper functioning of the internal market.

The Regulation is based on the premise that consumers cannot exercise genuine freedom of choice unless they have access to accurate, comprehensible and reliable information concerning the products they purchase. Food information is therefore conceived not merely as a technical regulatory requirement but as an essential instrument for enabling informed economic decisions. The European legislature expressly recognised that purchasing choices may be influenced by a broad range of considerations, including health, economic, environmental, social and ethical factors. Within this context, transparency assumes a central role in reducing information asymmetries between producers and consumers.

The Regulation pursues a dual objective. On the one hand, it seeks to guarantee a high level of consumer protection by ensuring that information concerning food products is accurate and meaningful. On the other hand, it aims to prevent distortions of competition arising from divergent national rules governing food labelling and presentation. Harmonisation is therefore conceived as a means of simultaneously protecting consumers and facilitating the free movement of goods within the Union. Particular significance is attached to the notion of informed choice. Unlike earlier regulatory approaches, which were primarily concerned with preventing outright deception, Regulation No 1169/2011 reflects a broader conception of consumer autonomy. The purpose of food information is not simply to prevent false statements but to provide consumers with the elements necessary to understand the essential characteristics of the products they purchase. This objective explains the detailed rules governing mandatory information, presentation requirements and the communication of origin-related indications.

The growing relevance of origin information must be understood within this broader regulatory context. As consumer interest in the provenance of food products has increased, questions relating to geographical origin have gradually moved from the periphery to the centre of European food information policy.

3.2. Misleading Food Information Under Article 7 of Regulation (EU) No 1169/2011

Article 7 of Regulation No 1169/2011 occupies a central position within the architecture of European food information law. Rather than prescribing specific items of mandatory information, the provision establishes a general principle governing the manner in which food information must be communicated to consumers.

The provision prohibits food information that is misleading, particularly with regard to the characteristics of the food, including its nature, identity, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production. The scope of the prohibition is deliberately broad. The legislature recognised that consumer deception may arise not only from

objectively false statements but also from the overall presentation of accurate information. This aspect represents one of the most significant innovations of the Regulation. Article 7 does not limit itself to sanctioning factual inaccuracies. It also addresses situations in which information, while technically correct, is presented in a manner capable of creating a mistaken impression concerning the essential characteristics of the product. The legal focus thus shifts from the isolated examination of individual statements to an assessment of the overall informational context.

The provision further prohibits practices consisting of attributing to a food effects or properties that it does not possess, suggesting that a food possesses particular characteristics when all similar foods possess those characteristics, or otherwise creating misleading impressions regarding the nature of the product. These rules reflect an understanding of consumer behaviour that extends beyond purely literal interpretations of commercial messages.

The practical application of Article 7 has demonstrated that the concept of misleading information cannot be confined to textual statements appearing on labels. Visual elements, graphic design, packaging choices, imagery and contextual information may all contribute to the creation of a misleading overall impression. As a result, the provision has become a key legal basis for assessing complex commercial communication strategies in which the cumulative effect of multiple elements is capable of influencing consumer perceptions. It is precisely this broader understanding of misleading information that lies at the heart of the litigation examined in the following chapters.

3.3. Indication of the Origin of the Primary Ingredient Under Regulation (EU) 2018/775

The increasing importance attributed to origin information culminated in the adoption of Commission Implementing Regulation (EU) 2018/775, which supplements Regulation No 1169/2011 by establishing detailed rules concerning the indication of the origin of a food's primary ingredient. The Regulation addresses a specific situation that had become increasingly common within the internal market. Producers frequently emphasised the origin of a food product through labels, symbols or commercial claims while the primary ingredient originated from a different geographical area. Although such practices did not necessarily involve false information, they were capable of generating ambiguity regarding the actual provenance of the essential components of the product.

Regulation 2018/775 seeks to address this informational gap. Where the country of origin or place of provenance of a food is indicated and differs from that of its primary ingredient, the Regulation requires that consumers be informed of the different origin of the primary ingredient or, alternatively, that the origin of the primary ingredient be specified.

The significance of this intervention extends beyond its technical content. The Regulation reflects a broader recognition that consumers may attribute particular importance not only to the place where a

food is manufactured but also to the geographical origin of the raw materials from which it is produced. In doing so, European law acknowledges the increasing complexity of modern supply chains and the growing sensitivity of consumers towards origin-related information. The notion of a primary ingredient is especially relevant in sectors characterised by relatively simple production processes. In the case of pasta, for example, the relationship between durum wheat, semolina and the final product raises important questions regarding the level of information that consumers may reasonably expect to receive concerning the provenance of the principal agricultural input.

These issues would later emerge with particular intensity in the Lidl litigation, where the relationship between Italian manufacturing and the origin of the wheat used in production became the focal point of the dispute.

3.4. Directive 2005/29/EC on Unfair Commercial Practices

Alongside the specialised rules governing food information, European consumer protection law has developed a comprehensive framework designed to address unfair commercial practices more generally.

Directive 2005/29/EC constitutes the principal legislative instrument in this field. Its objective is to ensure a high level of consumer protection by prohibiting commercial practices that distort or are likely to distort the economic behaviour of consumers. Unlike Regulation No 1169/2011, which focuses specifically on food information, the Directive applies horizontally across all sectors of economic activity. The Directive adopts a functional approach centred upon the concept of consumer decision-making. A commercial practice may be regarded as unfair where it materially impairs the ability of consumers to make informed choices, thereby causing them to take transactional decisions that they would not otherwise have taken.

Within this framework, misleading actions and misleading omissions occupy a particularly important role. Commercial communications may be unlawful not only because they contain false information, but also because they present information in a manner capable of deceiving consumers, even where the factual content of the communication remains technically accurate.

The Directive therefore embraces a concept of deception that is not fundamentally different from the one underlying Article 7 of Regulation No 1169/2011. Both instruments seek to protect consumers from commercial communications capable of creating inaccurate perceptions regarding the characteristics of goods. The difference lies primarily in their respective scope of application. While Regulation No 1169/2011 operates within the specialised field of food information, Directive 2005/29/EC establishes a general framework governing commercial conduct across the entire

consumer market. This overlap would eventually become the central issue in the Lidl litigation and would ultimately require clarification by the Court of Justice.

3.5. The Relationship Between Food Information Law and Consumer Protection Law

The relationship between Regulation No 1169/2011 and Directive 2005/29/EC has long generated uncertainty in both legal scholarship and administrative practice.

At first sight, the coexistence of a specialised food information regime and a general consumer protection framework appears capable of creating tensions. Both instruments pursue consumer protection objectives. Both prohibit misleading conduct. Both seek to ensure that consumers are able to make informed economic decisions. The question therefore arises whether food information should be assessed exclusively under the specialised rules governing food labelling or whether general consumer protection rules may also apply. The issue is not merely theoretical. Different answers may lead to different enforcement mechanisms, different competent authorities and, in some cases, significantly different sanctions. The practical consequences are therefore considerable.

Before the judgment in Case C-301/25, two competing approaches could be identified. According to one view, food information law constituted a *lex specialis* capable of displacing the application of general consumer protection rules whenever food labelling was concerned. According to the alternative view, the two regulatory regimes pursued complementary objectives and could therefore operate concurrently.

The controversy surrounding the Lidl product lines brought this issue into sharp focus. The conduct under examination could arguably fall within both Article 7 of Regulation No 1169/2011 and the provisions of Directive 2005/29/EC governing misleading commercial practices. The resulting uncertainty ultimately prompted the Italian Council of State to refer a series of questions to the Court of Justice concerning the relationship between the two instruments.

The Court's response, examined in Chapter 8, has provided important guidance regarding the interaction between food information law and consumer protection law. More broadly, it has contributed to the development of a more integrated conception of consumer protection within the European regulatory framework, one that places increasing emphasis on the overall informational environment within which consumers form their purchasing decisions.

4. Raw Material Origin and Commercial Communication in the Pasta Sector

4.1. The Economic and Symbolic Value of Durum Wheat Origin

Few food products are as closely associated with national identity as pasta is with Italy. The relationship between pasta and Italian culture extends well beyond the sphere of consumption, reflecting historical, social and economic processes that have contributed to making pasta one of the most recognisable symbols of Italian agri-food production worldwide. As a consequence, any discussion concerning the origin of pasta inevitably raises broader questions concerning authenticity, tradition and territorial identity.

Within this context, the origin of durum wheat has acquired a significance that would have been difficult to imagine only a few decades ago. Traditionally, consumers were primarily concerned with the quality of the finished product, paying limited attention to the geographical provenance of the agricultural raw materials used in its manufacture. Globalisation, increased transparency requirements and growing interest in food supply chains have progressively altered this perspective. Today, the origin of durum wheat often functions as a quality indicator in its own right. Consumers may associate specific geographical areas with particular agronomic traditions, production standards or environmental conditions. Whether such perceptions are objectively justified is, from a legal perspective, less important than the fact that they influence purchasing behaviour and market dynamics. Origin has become an economic attribute capable of affecting consumer choice independently of the physical characteristics of the final product.

The commercial value attached to origin is particularly evident in the Italian pasta sector. Italy remains one of the world's leading producers and exporters of pasta, yet domestic production frequently relies on wheat sourced from a variety of geographical areas, including both European and non-European countries. This structural feature of the supply chain creates a potential divergence between the geographical identity associated with the final product and the provenance of its principal agricultural ingredient.

Such divergence does not necessarily imply any reduction in quality or authenticity. Nevertheless, it raises questions concerning the information that consumers expect to receive and the extent to which commercial communication should clarify the distinction between the origin of the finished product and the origin of the raw materials used in its manufacture. It is precisely this tension that lies at the heart of the regulatory and judicial developments examined in the following chapters.

4.2. The Evolution of Consumer Awareness in the European Union

The growing relevance of origin information reflects a broader transformation in consumer behaviour across the European Union. For much of the twentieth century, food purchasing decisions were influenced primarily by price, availability and basic quality considerations. While geographical origin

occasionally played a role, it was generally perceived as a secondary characteristic, relevant only in relation to a limited number of traditional products.

This situation has changed considerably. Contemporary consumers increasingly seek information concerning the production process, environmental impact, sustainability credentials and provenance of food products. The expansion of global supply chains has generated a corresponding demand for greater transparency regarding the journey of food from agricultural production to final consumption. Several factors have contributed to this development. Recurrent food safety crises have heightened public sensitivity to traceability and production controls. Environmental concerns have encouraged closer scrutiny of production methods and transportation distances. At the same time, growing interest in local food systems and cultural heritage has reinforced the perceived value of territorial origin.

European institutions have progressively recognised these developments. Legislative interventions adopted over the last two decades reveal an increasing awareness that origin information may play a decisive role in consumer decision-making. The adoption of Regulation No 1169/2011 and, subsequently, Regulation 2018/775 reflects the understanding that consumers frequently attach significance not only to the place where food is manufactured but also to the provenance of the ingredients from which it is derived.

The importance attributed to origin is therefore not an isolated phenomenon confined to particular categories of consumers. Rather, it forms part of a broader evolution in market expectations, one that has gradually reshaped both regulatory priorities and commercial practices throughout the European Union.

4.3. Packaging, Marketing and the Construction of Perceived Italian Identity

In contemporary food markets, consumer perceptions are rarely shaped by mandatory information alone. Purchasing decisions emerge from a complex interaction of visual, linguistic and symbolic elements that collectively contribute to the construction of a product's identity.

Packaging has become one of the most powerful instruments through which producers communicate values, traditions and geographical associations. Colours, imagery, typography, product names and graphic design choices frequently convey messages that extend far beyond the information expressly contained in mandatory labelling requirements. The commercial success of many food products depends precisely on their ability to establish emotional and cultural connections with consumers.

The construction of perceived Italian identity represents a particularly significant example of this phenomenon. References to Italy may be communicated through a wide variety of elements: the use of the national flag, visual representations of iconic landscapes, references to Italian culinary traditions, Italian-language expressions or trade marks capable of evoking a connection with Italian

culture. None of these elements, taken individually, necessarily conveys a specific claim concerning geographical origin. Their significance emerges from their cumulative effect.

From a legal standpoint, this communicative strategy raises complex questions. Commercial communication often operates through suggestion rather than explicit representation. The persuasive power of packaging derives precisely from its ability to influence perception without making direct factual claims that can easily be verified or disproved. Consequently, the assessment of potentially misleading communication cannot be confined to the examination of isolated statements but must encompass the overall impression generated by the presentation of the product.

The controversy surrounding the Lidl pasta products illustrates the practical relevance of this issue. The dispute arose not because the packaging contained objectively false information, but because the combination of various visual and textual elements was considered capable of generating a particular perception regarding the Italian character of the product and, more specifically, the origin of the wheat used in its manufacture. The case thus highlights the increasingly important role played by packaging as a vehicle for communicating origin-related messages in contemporary agri-food markets.

4.4. Mandatory Information and Evocative Communication

The distinction between mandatory information and evocative communication lies at the centre of many contemporary disputes concerning food marketing. Mandatory information is governed by detailed legislative requirements. European food law specifies which information must be provided to consumers and establishes rules concerning its content, presentation and accessibility. Compliance with these obligations remains an essential condition for lawful marketing within the internal market. Commercial communication, however, extends far beyond mandatory disclosures. Producers routinely employ a wide range of communicative techniques designed to differentiate their products and attract consumer attention. Such techniques frequently operate through associations, symbols and narratives rather than through explicit factual statements.

The coexistence of these two dimensions creates a potential source of tension. A product may fully comply with all applicable information requirements while simultaneously being presented in a manner that encourages consumers to draw conclusions not expressly supported by the mandatory information provided. In such circumstances, the central legal question is no longer whether the mandatory information is accurate, but whether the overall communication strategy remains compatible with the objectives of consumer protection.

This issue has acquired particular importance in relation to origin claims. The indication of origin often involves a combination of mandatory disclosures and voluntary commercial elements. Consumers do not interpret these elements separately. Rather, they process them as part of a single

communicative environment in which visual impressions, symbolic references and textual information interact continuously. The gradual emergence of this broader perspective has significantly influenced both regulatory practice and judicial interpretation. Increasingly, legal scrutiny focuses on the relationship between mandatory information and the wider commercial context within which that information is presented. The objective is not merely to verify the formal accuracy of individual statements but to assess whether the communication, considered as a whole, enables consumers to form an accurate understanding of the product's essential characteristics.

The Lidl litigation represents one of the clearest examples of this shift. At its core lies the recognition that the legal assessment of food communication cannot be confined to the presence or absence of specific disclosures. What ultimately matters is the overall message conveyed to consumers and its capacity to influence their economic decisions.

5. The Lidl Case: From the AGCM Investigation to European Judicial Review

5.1. The “Italianno” and “Combino” Pasta Product Lines

The dispute that ultimately reached the Court of Justice of the European Union originated from the marketing of two pasta product lines distributed by Lidl Italia under the brands “Italianno” and “Combino”. Although differing in commercial positioning, both product ranges shared a common feature: the prominent use of references capable of associating the products with Italian food culture and Italian manufacturing traditions.

The products were effectively manufactured in Italy and therefore possessed a genuine connection with the Italian production system. The controversy did not concern the geographical location of the manufacturing process, nor did it involve allegations of falsified origin claims regarding the place where the pasta was produced. The dispute arose instead from the relationship between the strong emphasis placed upon Italian identity and the origin of the durum wheat used as the principal agricultural ingredient.

The case emerged at a time when the issue of raw material provenance was attracting growing public attention. Consumer organisations, agricultural associations and policymakers increasingly emphasised the distinction between the place of transformation of a food product and the geographical origin of the agricultural commodities used in its manufacture. Within this broader context, pasta became one of the most visible examples of a product whose commercial identity could be strongly associated with Italy while relying on wheat sourced from multiple geographical areas.

The Lidl products therefore became the focal point of a wider debate concerning the legal significance of origin-related information and the extent to which commercial communication may influence consumer perceptions regarding the provenance of food products.

5.2. The Contested Packaging Strategy

The central issue in the proceedings did not concern a specific statement appearing on the packaging but rather the overall communicative strategy adopted in presenting the products to consumers. The packaging incorporated a variety of visual and textual elements traditionally associated with Italian identity. Product names, graphic design choices, references to Italian culinary traditions and the use of symbols linked to Italy collectively contributed to the creation of a recognisable narrative centred on Italian origin and authenticity. The commercial message was not conveyed through a single representation but through the cumulative effect of multiple communicative elements.

Particular significance was attached to the coexistence of these references with information indicating that the wheat used in production originated from countries other than Italy. According to the authorities, the relevant issue was not whether such information was formally available to consumers, but whether it was capable of counterbalancing the overall impression generated by the packaging.

This aspect transformed the case into a broader inquiry concerning the relationship between mandatory information and commercial communication. The dispute raised a fundamental question that would subsequently become central to the judicial proceedings: should the legality of food communication be assessed exclusively on the basis of the accuracy of individual disclosures, or should account also be taken of the overall perception generated by the product's presentation?

The answer to this question would ultimately shape the entire trajectory of the litigation.

5.3. AGCM Decision No. PS11387 of 20 December 2019

The Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato – AGCM) concluded its investigation with Decision No. PS11387 of 20 December 2019, finding that the commercial practices adopted by Lidl Italia were capable of misleading consumers regarding the origin of the wheat used in the production of the pasta products concerned.

The Authority's intervention formed part of a broader investigation involving several pasta manufacturers and major retail operators. Unlike other undertakings involved in the proceedings, which chose to resolve the matter through commitments aimed at modifying their communication practices, Lidl contested the Authority's assessment and maintained the lawfulness of its commercial strategy. This procedural choice transformed the case into a judicial controversy that would subsequently extend through multiple levels of review.

The AGCM imposed an administrative fine of one million euros and concluded that the commercial presentation of the products was liable to affect consumers' economic behaviour by creating an inaccurate perception regarding the provenance of the principal ingredient.

The significance of the decision extended beyond its immediate outcome. The Authority effectively anticipated interpretative issues that would later acquire central importance within the framework of Regulation (EU) 2018/775 and, more broadly, in the evolving relationship between food information law and consumer protection law. For this reason, the decision rapidly became a reference point in discussions concerning the legal treatment of origin-related claims in the agri-food sector.

5.4. The Reasoning of the Italian Competition Authority

The Authority's reasoning was characterised by a markedly substantive approach to consumer protection. Rather than focusing exclusively on the formal accuracy of individual statements, the AGCM examined the overall communicative environment within which consumers encountered the products. The investigation proceeded from the assumption that commercial communication operates through the interaction of multiple elements and that consumer perception cannot be reduced to the isolated interpretation of mandatory disclosures.

According to the Authority, the decisive issue was whether the average consumer could reasonably be led to associate the products with the use of Italian wheat as a consequence of the overall presentation adopted by the trader. The inquiry therefore centred upon the practical effects of the communication rather than upon the literal truthfulness of individual statements.

This approach reflected a broader understanding of consumer protection law. The Authority considered that compliance with food information requirements did not automatically preclude the application of rules governing unfair commercial practices. Where the overall presentation of a product was capable of influencing consumer behaviour through the creation of a misleading impression, consumer protection rules could remain applicable even in the presence of technically accurate disclosures.

In retrospect, this aspect of the decision proved to be the most controversial. It would later become the central issue addressed by the Council of State in its preliminary reference and, ultimately, by the Court of Justice in Case C-301/25.

5.5. The Relevance of Wheat Origin in the Authority's Assessment

The Authority's assessment assigned particular importance to the origin of the durum wheat used in the manufacture of the products. This aspect deserves careful consideration because the dispute did not concern a protected designation of origin, a geographical indication or any statutory requirement that pasta marketed as Italian must necessarily be produced from Italian wheat. The legal issue was therefore not whether the use of foreign wheat rendered the products non-compliant with food law.

Instead, the Authority regarded the provenance of the wheat as information capable of influencing consumer purchasing decisions. The investigation relied upon the premise that a significant proportion of consumers attribute economic and qualitative significance to the geographical origin of primary agricultural ingredients. Consequently, where commercial communication strongly emphasises Italian identity, the origin of the wheat may become an element of particular relevance in the overall assessment of consumer perception.

The AGCM therefore considered that the distinction between the origin of the finished product and the origin of its primary ingredient could not be dismissed as legally irrelevant. On the contrary, the Authority treated this distinction as a central factor in determining whether the overall presentation of the products was capable of misleading consumers. This analytical framework would subsequently influence both the judgment of the Regional Administrative Court of Lazio and the questions referred by the Council of State to the Court of Justice. More broadly, it anticipated a growing tendency within European food law to attribute increasing importance to the provenance of primary ingredients and to the role that such information plays in consumer decision-making.

The Lidl decision thus marked a significant step in the transition from a regulatory model focused primarily on the accuracy of individual statements towards one that places greater emphasis on the overall informational environment within which consumers form their expectations regarding food products.

6. The Judgment of the Regional Administrative Court of Lazio (TAR Lazio) No. 2453/2023

6.1. Confirmation of the AGCM's Jurisdiction

The judgment delivered by the Regional Administrative Court of Lazio on 13 February 2023 represents the first judicial assessment of the legal issues raised by the Lidl case. By dismissing the appeal brought by Lidl Italia against AGCM Decision No. PS11387, the Court confirmed the lawfulness of the Authority's intervention and, more importantly, endorsed the underlying legal framework upon which the administrative decision had been based.

A central issue concerned the relationship between food information law and consumer protection law. Lidl argued that the disputed conduct fell exclusively within the scope of Regulation (EU) No 1169/2011 and the national legislation implementing that Regulation. According to this line of reasoning, the specialised rules governing food information constituted a self-contained regulatory framework capable of excluding the application of the general provisions on unfair commercial practices.

The Court rejected this argument. It held that the discipline governing food information and the rules protecting consumers against misleading commercial practices pursue complementary objectives and operate on different normative planes. Food law establishes substantive requirements concerning the information that must accompany food products, whereas consumer protection law addresses the broader impact of commercial communication on consumer decision-making. The coexistence of these regulatory frameworks was therefore considered neither contradictory nor mutually exclusive. The significance of this conclusion extended far beyond the specific circumstances of the dispute. By confirming the Authority's competence, the Court implicitly recognised that compliance with food information rules does not necessarily exhaust the legal assessment of a commercial practice. Even where mandatory disclosures formally satisfy the requirements imposed by food legislation, consumer protection law may remain relevant if the overall presentation of the product is capable of misleading consumers.

The judgment thus provided the first judicial endorsement of an interpretative approach that would later become the subject of the preliminary reference to the Court of Justice.

6.2. The Average Consumer as the Relevant Legal Benchmark

A second aspect of particular importance concerns the Court's treatment of the average consumer standard. European consumer law traditionally assesses potentially misleading practices from the perspective of a reasonably well-informed, reasonably observant and circumspect consumer. This standard does not require an exhaustive examination of every item of information available to consumers, nor does it assume an unrealistic degree of attention during ordinary purchasing decisions. The Court applied this benchmark to the circumstances of the case and emphasised that the assessment could not be limited to the formal availability of information concerning the origin of the wheat. The decisive issue was whether the average consumer, when confronted with the overall presentation of the product, would correctly understand the relationship between the Italian identity prominently emphasised on the packaging and the actual provenance of the primary agricultural ingredient.

Particular relevance was attributed to empirical evidence concerning consumer behaviour and consumer expectations regarding food origin. The Court accepted that the provenance of raw materials may constitute a factor capable of influencing purchasing decisions and that consumers increasingly attach significance to origin-related information. As a consequence, the legal assessment could not disregard the practical manner in which such information is perceived in the marketplace. This reasoning reveals a broader tendency within contemporary consumer law. Rather than focusing exclusively on formal compliance with information obligations, courts increasingly examine the

actual communicative effect of commercial practices. The average consumer standard serves precisely this purpose by linking legal analysis to the realities of consumer perception.

6.3. Wheat Origin as Material Information for Consumer Decision-Making

One of the most significant findings of the judgment concerns the legal relevance attributed to the origin of the wheat used in pasta production.

The Court rejected the notion that the provenance of the raw material constituted merely ancillary information. Instead, it recognised that the origin of durum wheat may represent a factor of genuine economic importance for consumers and may therefore influence purchasing decisions. This conclusion is particularly noteworthy because European food law does not generally require that products manufactured in Italy be produced exclusively from Italian raw materials. Nor did the dispute concern a protected designation of origin or a geographical indication imposing specific sourcing requirements. The issue was therefore not one of objective non-compliance with product specifications.

The Court nevertheless acknowledged that consumers may legitimately attribute significance to the provenance of agricultural ingredients and may regard such information as relevant when evaluating competing products. In the context of pasta, where the relationship between the finished product and the wheat from which it is derived is especially close, the origin of the raw material may acquire a level of importance comparable to that traditionally associated with the place of manufacture itself. The judgment thereby reflects a broader transformation in European food markets. Origin-related information is increasingly viewed not merely as descriptive information but as a factor capable of affecting consumer preferences, market behaviour and competitive dynamics. The Court's reasoning mirrors this evolution by recognising that the provenance of the primary ingredient may constitute material information within the meaning of consumer protection law.

This aspect of the decision would later play a significant role in the arguments presented before the Council of State and ultimately before the Court of Justice.

6.4. The Overall Impression Test in Commercial Communication

The most innovative aspect of the judgment lies in the Court's adoption of what may be described as an overall impression test.

The Court did not examine the various elements appearing on the packaging in isolation. Instead, it considered the cumulative effect produced by the interaction of visual, textual and symbolic components. The legality of the commercial communication was assessed in light of the message conveyed by the packaging as a whole rather than through a fragmented analysis of individual

statements. This approach reflects an increasingly established principle within European consumer law. Consumers do not ordinarily process information through a detailed legal examination of each element appearing on a label. Purchasing decisions are generally based upon a rapid and holistic perception of the product. Consequently, the legal assessment of potentially misleading communication must mirror the manner in which information is actually received and interpreted in commercial reality.

The Court therefore accepted the Authority's conclusion that references to Italian identity could not be evaluated separately from the indication concerning the origin of the wheat. The decisive question was whether the overall presentation was capable of creating a perception that differed from the actual characteristics of the product. The analysis focused on the net communicative effect generated by the interaction of all relevant elements. This reasoning marks a significant departure from a purely formal conception of food information. Under a formalistic approach, the presence of technically accurate disclosures would often be sufficient to exclude liability. The Court instead adopted a more substantive perspective, according to which the effectiveness of information depends not only upon its accuracy but also upon its ability to convey a correct understanding of the product's essential characteristics.

The importance of this aspect of the judgment extends beyond the specific dispute. By placing the overall impression generated by commercial communication at the centre of the analysis, the Court anticipated the issues that would subsequently dominate the preliminary reference proceedings and ultimately shape the reasoning of the Court of Justice in Case C-301/25.

7. The Preliminary Reference by the Italian Council of State

7.1. From a Factual Dispute to a Systemic Legal Question

The appeal proceedings before the Italian Council of State marked a significant turning point in the evolution of the Lidl litigation. At that stage, the controversy ceased to concern exclusively the factual circumstances surrounding the marketing of specific pasta products and evolved into a broader inquiry regarding the structure of European consumer protection law itself.

The issues that had dominated the administrative investigation and the proceedings before the Regional Administrative Court were relatively circumscribed. They concerned the relationship between the packaging of the products, the origin of the wheat used in their manufacture and the potential impact of commercial communication on consumer behaviour. By the time the dispute reached the Council of State, however, the legal debate had shifted towards a more fundamental question: which regulatory framework should govern situations where the same conduct appears

capable of falling simultaneously within the scope of food information law and consumer protection law?

This shift reflected a growing awareness that the controversy involved more than the interpretation of specific provisions relating to food labelling. The case exposed a structural issue affecting the broader relationship between sector-specific regulation and general consumer protection legislation within the European legal order. The Council of State recognised that the answer to this question would not only determine the outcome of the Lidl litigation but would also influence the future enforcement of food information rules across the Union.

The preliminary reference therefore transformed the dispute into a test case concerning the interaction between different regulatory techniques used by European law to protect consumers. What had initially appeared to be a controversy concerning the origin of wheat ultimately became a vehicle for clarifying the boundaries between two major areas of Union legislation.

7.2. The Concurrent Application of Different Regulatory Regimes

The central issue identified by the Council of State concerned the possible concurrent application of Regulation (EU) No 1169/2011 and Directive 2005/29/EC. The court observed that the conduct attributed to Lidl could potentially fall within both legal frameworks. On the one hand, the presentation of the products raised questions under Article 7 of Regulation No 1169/2011, which prohibits misleading food information. On the other hand, the same conduct appeared capable of constituting a misleading commercial practice under the rules implementing Directive 2005/29/EC. This overlap generated a series of interpretative difficulties. If food information law were regarded as a self-contained and exhaustive regulatory regime, the application of consumer protection rules might be excluded on the basis of the principle that specific legislation prevails over general legislation. Conversely, if both regimes were capable of operating simultaneously, the same conduct could be subject to multiple legal assessments and potentially different enforcement mechanisms.

The Council of State noted that both instruments pursue broadly similar objectives. Each seeks to protect consumers against misleading conduct and to ensure informed economic decision-making. At the same time, however, the two instruments differ significantly in their scope, institutional framework and sanctioning mechanisms. These differences made it necessary to determine whether the relationship between them should be characterised as one of exclusivity or complementarity.

The issue was particularly sensitive because the practical consequences extended beyond questions of legal classification. The choice between the competing interpretations would determine the powers of national authorities, the sanctions available in cases of infringement and the overall architecture of

consumer protection within the food sector. Faced with these uncertainties, the Council of State concluded that clarification from the Court of Justice was necessary.

7.3. The Questions Referred to the Court of Justice

The preliminary reference focused on a limited number of questions, yet those questions touched upon some of the most significant issues arising from the interaction between food law and consumer law.

At the core of the reference lay the interpretation of Article 3(4) of Directive 2005/29/EC, which regulates the relationship between the Directive and other provisions of Union law governing specific aspects of unfair commercial practices. The Council of State sought guidance on whether Regulation No 1169/2011 should be regarded as a special regime capable of excluding the application of the Directive in situations involving food information.

The court further asked whether conduct falling within the scope of Article 7 of Regulation No 1169/2011 could simultaneously be assessed under the rules governing misleading commercial practices. This issue required the Court of Justice to determine whether the two legal instruments protected the same interests through mutually exclusive mechanisms or whether they addressed different dimensions of consumer protection and could therefore operate concurrently.

A further aspect of the reference concerned the effectiveness of the sanctions applicable under the respective legal regimes. The Council of State observed that substantial differences existed between the sanctioning mechanisms associated with food information law and those available under consumer protection legislation. This disparity raised questions regarding the practical effectiveness of the regulatory framework and the extent to which consumer protection objectives could be adequately achieved through the specialised food law regime alone.

The reference therefore invited the Court of Justice to address not merely a technical issue of legislative interpretation but a broader question concerning the organisation of consumer protection within the European Union.

7.4. The Issue of Effective and Dissuasive Sanctions

The question of sanctions occupied a prominent position in the reasoning of the Council of State and constituted one of the most distinctive aspects of the preliminary reference. The court observed that the legal consequences arising from a breach of food information law differed significantly from those associated with an infringement of consumer protection legislation. Violations of Regulation No 1169/2011, as implemented through national legislation, were subject to a specific sanctioning framework characterised by comparatively limited administrative penalties. By contrast, the

enforcement system applicable to unfair commercial practices allowed for substantially more severe sanctions.

This disparity prompted the Council of State to consider whether the specialised regime governing food information was capable, by itself, of ensuring an adequate level of deterrence. The issue was not confined to the Lidl case. More generally, it concerned the effectiveness of European consumer protection policy in situations where misleading conduct occurs within highly competitive markets and where economic incentives may outweigh relatively modest penalties. The court's concerns reflected a broader principle of Union law according to which sanctions must be effective, proportionate and dissuasive. A regulatory framework that formally prohibits misleading conduct but fails to provide adequate enforcement mechanisms risks undermining the practical effectiveness of the substantive rules it seeks to protect.

The preliminary reference therefore highlighted an often-overlooked dimension of the relationship between food law and consumer law. The debate was not limited to questions of legal competence or legislative hierarchy. It also concerned the capacity of different regulatory regimes to provide meaningful protection in practice.

This focus on enforcement would prove particularly significant in the proceedings before the Court of Justice. The answer ultimately provided by the Court would not only clarify the relationship between Regulation No 1169/2011 and Directive 2005/29/EC but would also influence the broader discussion concerning the role of sanctions in ensuring the effectiveness of European consumer protection law.

8. The Judgment of the Court of Justice of the European Union of 30 April 2026 (Case C-301/25)

8.1. The Position of the Advocate General

The Opinion delivered by the Advocate General framed the dispute within a broader debate concerning the architecture of European consumer protection law. Rather than treating the case as a narrow controversy concerning food labelling, the Opinion approached the questions referred by the Italian Council of State through the lens of regulatory coherence and the effectiveness of Union law. The Advocate General rejected the premise that the existence of a sector-specific regime governing food information necessarily excludes the application of general consumer protection rules. The fact that Regulation No 1169/2011 contains detailed provisions concerning food information does not, in itself, establish a complete and autonomous system capable of governing every aspect of commercial communication relating to food products.

Particular emphasis was placed on the different functions performed by the two legislative instruments. Food information law regulates the content and presentation of information provided to consumers in relation to food products. Directive 2005/29/EC, by contrast, addresses the broader impact of commercial practices on consumer decision-making. Although the two instruments frequently operate in relation to the same factual circumstances, they do not necessarily pursue identical objectives.

The Advocate General therefore proposed an interpretation capable of preserving the effectiveness of both instruments while avoiding unnecessary overlaps or contradictions. This analytical framework would subsequently be reflected, to a significant extent, in the reasoning adopted by the Court.

8.2. The Interpretation of Article 3(4) of Directive 2005/29/EC

The central legal issue before the Court concerned the interpretation of Article 3(4) of Directive 2005/29/EC. That provision establishes that, in the event of a conflict between the Directive and other Union rules regulating specific aspects of unfair commercial practices, the latter provisions prevail and apply to those specific aspects. The provision embodies the traditional principle according to which sector-specific legislation may take precedence over a more general regulatory framework.

The Court observed, however, that Article 3(4) does not provide for the automatic exclusion of the Directive whenever a sector-specific regulatory instrument exists. The existence of specialised legislation is not sufficient, in itself, to displace the application of the general consumer protection framework. Such exclusion is justified only where a genuine conflict exists between the two sets of rules.

The judgment therefore shifted the focus of the analysis. The decisive question was not whether Regulation No 1169/2011 constituted specialised legislation—which was undisputed—but whether its provisions were incompatible with the application of Directive 2005/29/EC in the circumstances of the case. Only an actual conflict capable of preventing the simultaneous operation of both instruments could justify the exclusion of the Directive.

This interpretative approach reflects a broader tendency within the case law of the Court of Justice. Sector-specific legislation is not presumed to exhaustively regulate every aspect of a given field. Rather, different instruments must be interpreted in a manner that preserves their respective effectiveness whenever such coexistence is legally possible.

8.3. Conflict Between Sector-Specific and General Consumer Protection Rules

Having identified the relevant interpretative framework, the Court proceeded to examine whether a conflict existed between Regulation No 1169/2011 and Directive 2005/29/EC.

The Court adopted a restrictive understanding of the concept of conflict. A conflict cannot be inferred merely from the fact that two legislative instruments regulate the same factual situation. Nor does it arise simply because both instruments pursue consumer protection objectives. Rather, a conflict exists only where compliance with one set of rules would necessarily prevent compliance with the other or where the simultaneous application of both instruments would lead to contradictory legal consequences.

Applying this standard, the Court found no incompatibility between the two regulatory frameworks. The rules governing food information and the rules governing unfair commercial practices may both apply to commercial conduct relating to food products without generating legal contradictions. The fact that food information is regulated by specialised legislation does not imply that food-related commercial communication falls entirely outside the scope of consumer protection law.

This conclusion is of particular importance because it rejects a formalistic conception of regulatory specialisation. The Court declined to treat Regulation No 1169/2011 as a closed and exhaustive system governing every aspect of food communication. Instead, it recognised that food information may simultaneously raise issues falling within the scope of broader consumer protection principles. The judgment therefore confirms that the relationship between specialised and general legislation must be determined through a substantive examination of their respective objectives and functions rather than through abstract classifications.

8.4. The Complementarity of Regulation (EU) No 1169/2011 and Directive 2005/29/EC

The most significant aspect of the judgment lies in the Court's explicit recognition of the complementarity between Regulation No 1169/2011 and Directive 2005/29/EC.

According to the Court, the two instruments form part of a coherent system of consumer protection and address different dimensions of commercial communication. Food information law seeks to ensure that consumers receive accurate and meaningful information concerning food products. Consumer protection law, in turn, seeks to safeguard the integrity of consumer decision-making by prohibiting commercial practices capable of distorting economic behaviour.

Although both instruments contribute to consumer protection, they do so through distinct mechanisms. Regulation No 1169/2011 focuses primarily on informational transparency, whereas Directive 2005/29/EC addresses the broader effects of commercial communication on consumer choices. For this reason, the Court concluded that the two regimes should generally be regarded as complementary rather than mutually exclusive.

This finding represents the central holding of the judgment. It confirms that compliance with food information rules does not automatically exclude scrutiny under consumer protection legislation.

Conversely, the application of consumer protection rules does not undermine the autonomy or effectiveness of the specialised food law regime. The Court thus rejected the binary choice that had implicitly underpinned much of the earlier debate. The relationship between the two instruments is not one of substitution but of coexistence.

8.5. Limits to the Concurrent Application of the Two Regimes

The Court nevertheless recognised that the concurrent application of Regulation No 1169/2011 and Directive 2005/29/EC is not without limits. The principle of complementarity cannot be interpreted as allowing consumer protection authorities to impose obligations that are incompatible with the choices made by the European legislature in the field of food information. Where Union food law has exhaustively regulated a specific matter and established a clear balance between competing interests, the application of general consumer protection rules cannot be used to circumvent that legislative framework.

The Court therefore introduced an important qualification. While the Directive remains applicable in principle, its application must respect the structure and objectives of the specialised legislation. Consumer protection law cannot serve as a vehicle for creating additional information obligations that effectively modify the content of the food information regime established by Union law.

This aspect of the judgment is particularly significant for future disputes. It ensures that the principle of complementarity does not degenerate into regulatory duplication or legal uncertainty. The coexistence of the two instruments must remain consistent with the requirements of legal certainty and harmonisation within the internal market.

The Court thus sought to strike a balance between effective consumer protection and the preservation of a coherent regulatory framework governing food information.

8.6. Implications for National Enforcement Systems

The judgment has important consequences for national enforcement authorities and administrative courts.

First, it confirms that authorities responsible for enforcing consumer protection legislation may intervene in relation to food products even where the conduct under examination falls within the scope of Regulation No 1169/2011. The existence of specialised food legislation does not deprive consumer protection authorities of their competence where the overall commercial practice is capable of misleading consumers.

Second, the judgment strengthens the role of consumer protection law as a complementary instrument for addressing commercial communication strategies that may not be adequately captured by a purely

formal application of food information rules. National authorities are encouraged to consider the overall impact of commercial communication on consumer perception rather than limiting their analysis to compliance with individual labelling requirements.

Third, the decision reinforces the importance of effective enforcement mechanisms. By confirming the continued applicability of Directive 2005/29/EC, the Court preserves access to sanctioning tools that may, in certain circumstances, provide a stronger deterrent effect than those available under food information legislation alone.

More broadly, the judgment contributes to the emergence of a more integrated model of consumer protection within European agri-food law. The traditional distinction between food information and consumer protection remains relevant, but it no longer operates as a rigid barrier separating two autonomous legal spheres. Instead, both fields are increasingly understood as components of a broader regulatory strategy aimed at ensuring that consumers are able to make informed economic decisions in increasingly complex markets.

The Lidl judgment therefore represents more than a decision concerning the origin of wheat used in pasta production. It constitutes an important statement concerning the relationship between specialised regulation and general consumer protection law within the European legal order and provides a framework that is likely to influence future disputes involving origin claims, food marketing and commercial communication.

9. From the Accuracy of Information to the Accuracy of Consumer Perception

9.1. The Decline of a Formalistic Approach to Food Labelling

The Lidl litigation reveals a broader transformation that has gradually reshaped the foundations of European food information law. At stake is not merely the interpretation of specific provisions governing food labelling, but the evolution of the very concept of transparency that underpins the regulatory framework.

For a long time, the legality of food communication was assessed primarily through a formalistic lens. The central question was whether the information provided to consumers was objectively accurate and whether the mandatory disclosures required by legislation were present and correctly formulated. Under this model, compliance was essentially measured against the content of individual statements.

Such an approach reflected the historical development of food law. Early regulatory interventions were principally concerned with combating fraud, adulteration and false representations regarding the nature or composition of food products. The legal inquiry therefore focused on the factual truthfulness of information and on the prevention of objectively deceptive conduct.

The growing sophistication of commercial communication has progressively exposed the limits of this paradigm. Modern marketing strategies rarely rely upon explicit falsehoods. Commercial messages are increasingly conveyed through combinations of visual, symbolic and contextual elements capable of influencing consumer perceptions without necessarily containing inaccurate statements. In such circumstances, the formal correctness of individual disclosures may coexist with a commercial presentation that produces a distorted understanding of the product.

The Lidl case illustrates this phenomenon particularly well. Neither the administrative authorities nor the courts identified false information concerning the geographical origin of the wheat. The dispute arose precisely because the information was formally available while the overall presentation of the product was alleged to convey a different message. The controversy therefore exposed the inadequacy of a legal analysis confined to the verification of individual statements.

The evolution reflected in the case law examined in the preceding chapters suggests that the traditional focus on informational accuracy is increasingly being supplemented by a broader inquiry into the effectiveness of communication. The relevant issue is no longer limited to what is said but extends to what consumers are likely to understand.

9.2. The Central Role of the Consumer's Overall Impression

One of the most significant developments in contemporary European consumer law is the increasing importance attributed to the notion of overall impression.

Consumers do not ordinarily approach food packaging as legal texts to be interpreted through a detailed examination of each individual element. Purchasing decisions are frequently made in conditions characterised by limited time, incomplete information and varying degrees of attention. In such circumstances, perception is shaped by the overall communicative environment rather than by the isolated analysis of mandatory disclosures.

This reality has progressively influenced both administrative practice and judicial reasoning. The concept of overall impression reflects the recognition that commercial communication operates holistically. Visual representations, colours, symbols, typography, product names, origin claims and mandatory information interact continuously in shaping consumer understanding. The meaning conveyed by the packaging emerges from the combination of these elements rather than from any single component considered in isolation.

The jurisprudential significance of the Lidl litigation lies largely in the fact that all the authorities involved in the case ultimately adopted this perspective. The AGCM, the Regional Administrative Court of Lazio, the Council of State and, indirectly, the Court of Justice each examined the overall

communicative effect of the packaging rather than limiting their analysis to the formal accuracy of individual statements.

The concept of overall impression introduces an important methodological shift. Legal scrutiny becomes increasingly concerned with the practical functioning of communication in the marketplace. The question ceases to be whether a particular statement is technically correct and becomes whether the communication, considered as a whole, enables consumers to form an accurate understanding of the product.

This development reflects a broader tendency within European consumer protection law to align legal analysis more closely with the realities of consumer behaviour.

9.3. Food Information Law and Behavioural Consumer Protection

The growing attention devoted to consumer perception corresponds to wider developments in the understanding of consumer decision-making. Traditional legal models were largely based upon the assumption that consumers behave as rational actors capable of processing information objectively and systematically. Under this framework, the provision of accurate information was generally regarded as sufficient to ensure informed choice. Once information had been disclosed, the responsibility for evaluating it rested primarily with the consumer.

Contemporary research in behavioural economics and consumer psychology has challenged many of these assumptions. Individuals frequently rely upon heuristics, cognitive shortcuts and intuitive judgments when making purchasing decisions. Information is often processed selectively, and consumers may be influenced by contextual factors that operate independently of the factual content of commercial communication.

Although European consumer law has not formally abandoned the figure of the average consumer, judicial and regulatory practice increasingly reflects an awareness of these behavioural dynamics. The assessment of misleading practices is no longer confined to identifying objectively false information. Greater attention is devoted to the practical mechanisms through which consumers perceive and interpret commercial messages. Food information law has not remained immune from this evolution. The growing emphasis on presentation, visibility, readability and contextual communication reflects a recognition that information derives its value not merely from its existence but from its capacity to be effectively understood by consumers.

The Lidl case can therefore be read as part of a broader transition towards a more behaviourally informed conception of consumer protection. The legal significance of the dispute lies not only in its treatment of origin claims but also in its implicit recognition that consumer understanding is shaped by the interaction of multiple communicative elements rather than by isolated disclosures.

9.4. Packaging and Consumer Economic Decision-Making

Packaging occupies a unique position within the architecture of food communication. It serves simultaneously as a vehicle for mandatory information, a marketing instrument and a means of product differentiation. In highly competitive food markets, packaging frequently represents the principal interface between producers and consumers. It is often the first—and sometimes the only—source of information available at the moment of purchase. Consequently, its influence on consumer behaviour extends far beyond aesthetic considerations.

The economic function of packaging derives from its ability to organise information and to create associations capable of guiding purchasing decisions. Colours may evoke particular geographical origins; images may suggest authenticity or tradition; symbols may communicate quality, sustainability or cultural identity. Through these mechanisms, packaging contributes directly to the formation of consumer expectations.

The legal relevance of packaging has increased in parallel with this economic significance. Courts and regulatory authorities increasingly recognise that consumer decisions are influenced not only by explicit claims but also by the broader symbolic environment created by the presentation of the product. As a result, the assessment of potentially misleading communication requires a comprehensive examination of all the elements that contribute to the construction of consumer perception.

The Lidl litigation offers a particularly clear illustration of this dynamic. The dispute did not concern the presence of inaccurate factual statements. Rather, it centred on the capacity of the packaging to communicate a specific understanding of the product's Italian identity and of the provenance of its principal ingredient. The legal analysis therefore focused upon the communicative power of packaging itself.

This development confirms that packaging has become a central object of legal scrutiny within contemporary food markets. The effectiveness of consumer protection increasingly depends upon the capacity of legal institutions to evaluate communication as it actually operates in commercial reality.

9.5. Towards a European Principle of Substantive Transparency

The developments examined throughout this article suggest the emergence of a broader principle that may be described as substantive transparency.

The traditional understanding of transparency was primarily procedural. Transparency requirements were satisfied whenever the relevant information was made available to consumers in accordance with the applicable legal framework. The emphasis was placed upon disclosure rather than

understanding. The evolution of European food information law points towards a more demanding conception. Increasingly, transparency is evaluated not only by reference to the existence of information but also in light of its practical capacity to enable informed consumer choice. Information that is formally accurate but functionally ineffective may no longer satisfy the objectives pursued by contemporary consumer protection law.

The Lidl judgment does not expressly formulate such a principle. Nevertheless, the reasoning adopted throughout the litigation reflects many of its defining characteristics. The dispute was ultimately resolved through an analysis centred upon perception, communication and consumer understanding. At each stage of the proceedings, the decisive issue was not merely whether information concerning wheat origin had been provided, but whether consumers were likely to form an accurate understanding of the product after considering the packaging as a whole.

The judgment of the Court of Justice provides the final piece of this evolution. By recognising the complementarity between food information law and consumer protection law, the Court implicitly endorsed a regulatory model that extends beyond formal compliance with disclosure obligations. The objective becomes the protection of informed consumer choice within the broader communicative environment in which economic decisions are made.

From this perspective, the Lidl case may represent more than a dispute concerning pasta packaging. It may signal a gradual transformation in the foundations of European agri-food regulation. The focus of legal analysis is progressively moving from the accuracy of information to the accuracy of consumer perception, from formal disclosure to substantive transparency, and from isolated statements to the overall communicative experience of the consumer.

Whether this evolution will ultimately crystallise into a fully developed general principle remains to be seen. Nonetheless, the trajectory emerging from recent legislation, administrative practice and judicial decisions suggests that substantive transparency is likely to play an increasingly important role in the future development of European food law.

10. Italy's Regulatory Response to Italian Sounding

10.1. Law No. 206/2023 on the Promotion of Made in Italy

The enactment of Law No. 206 of 27 December 2023 marked a significant development in Italy's strategy for the protection and promotion of national production. Although the legislation addresses a broad range of industrial, cultural and economic policies, one of its underlying objectives is the strengthening of legal instruments designed to preserve the value associated with Italian identity in domestic and international markets.

The statute reflects an awareness that the protection of Made in Italy can no longer be confined to traditional mechanisms of intellectual property enforcement. Contemporary markets are increasingly characterised by forms of commercial communication that exploit the reputational value of Italian products without necessarily infringing registered trade marks or protected geographical indications. As a result, the legal response has progressively expanded beyond the classical categories of counterfeiting and unfair competition.

Particular attention is devoted to the agri-food sector, where Italian products derive a substantial part of their economic value from their association with territory, tradition and cultural heritage. The legislature expressly recognised the strategic importance of food production for the national economy and sought to reinforce existing mechanisms designed to protect the integrity of Italian production systems.

In this respect, Law No. 206/2023 should be understood not merely as an economic policy measure but as part of a broader regulatory trend aimed at safeguarding the informational value of origin. The legislation reflects the increasing convergence between industrial policy, consumer protection and market transparency, all of which play a role in addressing the challenges posed by Italian Sounding practices. The significance of the statute lies less in the introduction of entirely new legal concepts than in the political and institutional recognition that the protection of Italian identity has become a strategic objective requiring coordinated action across multiple regulatory domains.

10.2. Emerging Enforcement Strategies

The evolution of the legal framework has been accompanied by a parallel transformation in enforcement strategies.

Historically, interventions against misleading references to Italian origin focused primarily on cases involving counterfeit goods or direct infringements of intellectual property rights. Enforcement activity was therefore largely reactive and concentrated upon clearly unlawful conduct. The increasing sophistication of Italian Sounding practices has made this approach progressively less effective.

Contemporary enforcement policies are characterised by a broader and more preventive perspective. Authorities increasingly focus on commercial communication, market behaviour and consumer perception rather than limiting their attention to the existence of counterfeit products. The objective is no longer simply to remove unlawful products from the market but to prevent commercial practices capable of generating misleading associations regarding origin, quality or authenticity.

This shift is evident in the growing importance attributed to administrative enforcement mechanisms. Consumer protection authorities, food control agencies and specialised law enforcement bodies have

progressively developed investigative techniques aimed at examining commercial communication in its broader context. Particular attention is devoted to packaging, advertising campaigns, digital marketing and online distribution channels, all of which have become central vehicles for the dissemination of origin-related claims.

The Lidl litigation itself may be regarded as an illustration of this evolution. The proceedings did not arise from allegations of counterfeiting or fraudulent misrepresentation in the traditional sense. Instead, they focused on the communicative effects of packaging and on the capacity of commercial presentation to influence consumer understanding. The case therefore reflects a broader transformation in the regulatory priorities governing agri-food markets.

The emerging model of enforcement is increasingly centred upon transparency, consumer autonomy and the preservation of fair competitive conditions. Within this framework, Italian Sounding is addressed not only as a threat to producers but also as a phenomenon capable of undermining the informational integrity of the marketplace.

10.3. The Role of ICQRF, AGCM, the Guardia di Finanza and the Carabinieri Agri-Food Protection Units

One of the defining features of the Italian system is the plurality of institutions involved in the protection of agri-food identity. The Central Inspectorate for Quality Protection and Fraud Repression of Agri-Food Products (ICQRF) occupies a central position within this framework. Operating under the Ministry of Agriculture, Food Sovereignty and Forests, the Inspectorate is responsible for monitoring compliance with legislation governing food quality, origin claims, geographical indications and market transparency. Its activities combine administrative controls, investigative functions and cooperation with both national and European institutions.

Alongside ICQRF, the Italian Competition Authority (AGCM) performs a distinct but increasingly relevant role. While not specifically entrusted with the protection of geographical origin as such, the Authority exercises important powers in relation to misleading commercial practices and consumer protection. The Lidl case demonstrates how consumer protection law may complement traditional food law enforcement mechanisms where commercial communication is capable of distorting consumer decision-making.

The Guardia di Finanza contributes through its economic and financial policing functions, particularly in cases involving organised commercial fraud, illicit trade networks and offences affecting the integrity of markets. Its investigative powers make it a crucial actor in the repression of large-scale schemes exploiting the reputational value of Italian products.

A further component of the enforcement system is represented by the specialised Carabinieri units responsible for the protection of agri-food production. These bodies conduct inspections, investigations and intelligence activities directed at safeguarding food supply chains and protecting consumers against fraud affecting the agri-food sector.

The coexistence of these institutions reflects the multidimensional nature of Italian Sounding. The phenomenon may simultaneously involve questions of food law, consumer protection, commercial fraud, intellectual property and market regulation. No single authority possesses all the instruments necessary to address every aspect of the problem. Effective protection therefore depends upon the coordinated operation of multiple enforcement actors.

10.4. Prospects for Cooperation Between Consumer Protection and Made in Italy Enforcement Policies

The developments examined throughout this article suggest that the future effectiveness of measures against Italian Sounding will depend increasingly upon cooperation between different regulatory regimes.

Traditionally, policies promoting Made in Italy and policies protecting consumers developed along largely separate trajectories. The former were primarily concerned with supporting national production and preserving the economic value of Italian goods. The latter focused on ensuring informed consumer choice and preventing misleading commercial conduct. Although related, these objectives were often pursued through distinct institutional structures and legal instruments.

Recent developments point towards a gradual convergence. The growing importance of origin information has revealed that the protection of Italian identity and the protection of consumers frequently serve complementary purposes. A market in which consumers receive accurate information concerning origin is likely to benefit both legitimate producers and consumers seeking to make informed purchasing decisions.

The Lidl case provides a particularly clear illustration of this convergence. The dispute originated within the sphere of consumer protection law, yet many of the concerns underlying the litigation overlap with broader objectives traditionally associated with the protection of Made in Italy. The issue was not merely whether consumers had been misled but also whether the commercial value attached to Italian identity was being communicated in a transparent and accurate manner.

The judgment of the Court of Justice reinforces this tendency by recognising the complementarity between specialised food information rules and the general framework governing unfair commercial practices. The decision encourages a regulatory model based upon cooperation rather than compartmentalisation. Food law, consumer protection law and policies promoting national

production are increasingly viewed as mutually reinforcing components of a broader strategy aimed at preserving market transparency.

Future enforcement initiatives are likely to develop along these lines. Greater coordination among administrative authorities, enhanced information sharing and integrated enforcement strategies may prove essential in addressing commercial practices that operate across traditional regulatory boundaries. In this respect, the fight against Italian Sounding is becoming part of a wider effort to ensure that origin-related information retains its economic, cultural and informational value within increasingly complex global markets.

11. Concluding Remarks

11.1. The Lidl Litigation as a European Leading Case

The litigation originating from the AGCM decision of December 2019 and culminating in the judgment of the Court of Justice in Case C-301/25 transcends the specific circumstances of the dispute. What initially appeared to be a controversy concerning the marketing of pasta products and the origin of durum wheat gradually evolved into a judicial examination of broader questions relating to the structure of European consumer protection and food information law.

The importance of the case lies not in the particular product involved, but in the legal principles clarified throughout the proceedings. The dispute provided the first opportunity for the Court of Justice to address directly the relationship between Regulation (EU) No 1169/2011 and Directive 2005/29/EC in the context of origin-related food communication. In doing so, the Court resolved an uncertainty that had long affected administrative practice and legal scholarship.

The judgment has therefore acquired a significance extending well beyond the Italian market. Its implications concern the interpretation of food information law throughout the Union and are likely to influence future disputes involving geographical origin, product presentation, packaging strategies and commercial communication. In this respect, the Lidl litigation may legitimately be regarded as a leading case in the development of contemporary European agri-food law.

More broadly, the case illustrates the growing complexity of origin-related communication in integrated markets. Traditional distinctions between food regulation, consumer protection and market governance increasingly prove inadequate to address commercial practices that operate simultaneously across several legal domains. The Lidl litigation has contributed significantly to the development of a more coherent approach capable of responding to these challenges.

11.2. The Progressive Convergence of Food Law and Consumer Law

One of the most significant lessons emerging from the case concerns the gradual convergence between food law and consumer law. Historically, the two fields developed along separate trajectories. Food law was primarily concerned with safety, composition, traceability and product integrity. Consumer law focused on market behaviour, commercial practices and economic decision-making. Although both areas pursued protective objectives, they generally operated through different concepts, institutions and enforcement mechanisms. The evolution of food communication has progressively reduced the practical significance of this distinction. Modern agri-food markets are characterised by forms of communication in which product information, branding strategies and marketing techniques are deeply intertwined. As a consequence, questions relating to food information frequently become questions concerning consumer perception, while consumer protection increasingly depends upon the quality and transparency of information provided to the market.

The Court of Justice acknowledged this reality by rejecting the view that Regulation No 1169/2011 constitutes a self-contained and exclusive regulatory regime. Instead, it recognised that food information law and consumer protection law perform complementary functions within a broader framework aimed at ensuring informed economic choice.

The significance of this development should not be underestimated. The judgment does not merely resolve a conflict between two legislative instruments. It reflects a deeper transformation in the conceptual foundations of consumer protection within the agri-food sector. The legal focus is progressively shifting from the regulation of isolated categories of conduct towards the protection of the informational environment within which consumer decisions are formed.

11.3. Raw Material Origin and Market Transparency

The Lidl case also highlights the growing importance of raw material origin within contemporary agri-food markets. For many years, legal debates concerning origin concentrated primarily on the geographical provenance of finished products. The increasing complexity of global supply chains has altered this perspective. Consumers now display a growing interest in the provenance of ingredients and raw materials, often regarding such information as relevant to assessments of quality, authenticity, sustainability and value.

This evolution is particularly evident in the pasta sector. The distinction between the place of manufacture and the origin of durum wheat has become a matter of commercial and legal significance. The dispute examined in this article demonstrates that consumers may attach independent value to the provenance of the primary agricultural ingredient even where the final product is genuinely manufactured in Italy.

From a regulatory perspective, this development raises important questions concerning transparency and market functioning. Origin information contributes to reducing information asymmetries and enables consumers to differentiate among competing products. At the same time, it creates incentives for commercial operators to emphasise origin-related attributes in increasingly sophisticated ways. The challenge for European law is therefore not merely to ensure the availability of information but also to preserve its communicative integrity. Information concerning origin must remain capable of performing its essential function within the marketplace. This objective cannot be achieved solely through formal disclosure requirements; it also requires attention to the broader communicative context within which such information is received and interpreted.

The Lidl litigation demonstrates that market transparency is no longer measured exclusively by the presence of information. Increasingly, it depends upon the capacity of information to convey an accurate understanding of the product's essential characteristics.

11.4. Future Developments in the Protection of Italian Agri-Food Identity Within the European Legal Order

The future evolution of European agri-food law is likely to be influenced by the trends highlighted throughout this study. The first concerns the continuing expansion of origin-related communication. As consumers become increasingly attentive to the provenance of products and ingredients, disputes concerning geographical origin are likely to become more frequent. The economic value attached to territorial identity will continue to generate incentives for commercial practices based upon the evocation of origin and authenticity.

The second concerns the growing relevance of consumer perception as a regulatory criterion. The reasoning developed in the Lidl litigation suggests that future legal analysis will increasingly focus upon the practical effects of commercial communication rather than upon the formal accuracy of individual statements. This tendency is likely to extend beyond food law and influence broader areas of consumer protection.

A third development concerns enforcement. The judgment of the Court of Justice confirms that effective consumer protection requires the coordinated application of different regulatory instruments. The future protection of Italian agri-food identity will therefore depend not only upon specialised food legislation but also upon the contribution of consumer protection law, competition policy and market surveillance mechanisms.

Finally, the case points towards the emergence of a more integrated conception of transparency within European law. The traditional emphasis on disclosure remains essential, but disclosure alone is no

longer sufficient. Increasingly, the objective of regulation is to ensure that consumers are placed in a position to understand the commercial reality that lies behind the products they purchase.

The Lidl litigation stands at the intersection of these developments. It concerns pasta and wheat, but it ultimately addresses a much broader question: how should European law respond when commercial communication shapes consumer perceptions through the strategic use of origin, identity and reputation? The answer provided by the Court of Justice does not close the debate. It establishes, however, a framework within which future discussions concerning Italian Sounding, food communication and consumer protection are likely to unfold.

In this sense, the significance of the case extends far beyond the circumstances that gave rise to the litigation. It marks an important stage in the ongoing evolution of European agri-food law from a system centred primarily upon the accuracy of information towards one increasingly concerned with the transparency of consumer perception.

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