

From Chocolate Bunnies to Planted Chicken:

The Empowered Consumer in the Crossfire of Labelling Requirements

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This paper examines a recent decision of the Swiss Federal Tribunal (2C_26/2023) prohibiting the use of animal-species terms, such as ‘planted.chicken,’ for vegan meat substitutes. While the ruling was grounded in the need to avoid consumer deception under Swiss food law, it reveals a broader tension between the protection of traditional product definitions and the dynamics of a rapidly growing plant-based market. The paper first outlines the relevant Swiss regulatory framework and traces the procedural history from the cantonal decision to the Federal Tribunal’s judgment. It then offers a critical analysis, highlighting inconsistencies in the application of the ‘average consumer’ standard, the restrictive interpretation of meat and milk terminology, and the potential chilling effect on innovation in sustainable food production. A final section explores the paradoxical marketing turn whereby the company reframed an adverse decision as a signal of product authenticity. The paper argues that this case exemplifies the need for regulatory approaches that balance consumer protection with the legal flexibility required to support a green transition toward plant-based nutrition.

keywords: plant-based | vegan | meat substitutes | sustainable food production | green transition

I. Introduction

Plant-based products are gaining momentum in markets around the world.¹ In Switzerland, this trend is also on the rise, with startups offering innovative alternatives to traditional animal-based foods.² However, the naming and labelling of these products has

triggered legal controversy, domestically and internationally, particularly over the potential for consumer deception.³ Under Swiss food law, product indications must be accurate and not misleading, with the so-called average consumer serving as the normative benchmark for interpreting potential confusion.⁴

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1 David Julian McClements and Lutz Grossmann, ‘The Rise of Plant-Based Foods’ in David Julian McClements and Lutz Grossmann (eds), *Next-Generation Plant-based Foods: Design, Production, and Properties* (Springer International Publishing 2022) <https://doi.org/10.1007/978-3-030-96764-2_1> accessed 17 July 2025; Zoe Wood, ‘World is shifting to a more plant-based diet, says Unilever chief’ *The Guardian* (4 February, 2021) <<https://www.theguardian.com/business/2021/feb/04/world-is-shifting-to-a-more-plant-based-diet-says-unilever-chief>> accessed 17 July 2025.

2 Sara Ibrahim, ‘Switzerland the Home of Vegan Food’ *Swissinfo.ch* (August 5, 2022) <<https://www.swissinfo.ch/eng/sci-tech/switzerland-the-home-of-vegan-food/47803352>> accessed 18 May 2025.

3 Daniele Pisanello and Luchino Ferraris, ‘Ban on Designating Plant Products as Dairy: Between Market Regulation and Over-Protection of the Consumer’ (2018) 9 *European Journal of Risk Regulation* 170; Astrid Seehafer and Marvin Bartels, ‘Meat 2.0 – The Regulatory Environment of Plant-Based and Cultured Meat’ (2019) 14 *European Food and Feed Law Review* 323; Steph Tai, ‘Legalizing the Meaning of Meat’ (2020) 51 *Loyola University Chicago Law Journal* 743 <https://lawcommons.luc.edu/luc-lj/vol51/iss3/4> accessed 17 July 2025.

4 The concept of average consumer is understood as “reasonably well-informed, observant, and circumspect” and it was first introduced by the European Court of Justice in the Case C-210/96 *Gut Springerheide* [1998] ECLI:EU: C:1998:369.

In May 2025, the Swiss Federal Tribunal issued a landmark ruling prohibiting the use of animal-species names such as ‘planted chicken’ for vegan meat substitutes.⁵ This judgment overturned a prior decision by the Zurich Administrative Court, which had held that such terms, when qualified (e.g., by ‘plant-based’), did not mislead consumers. In parallel, political discourse in Switzerland has also taken up the issue. In 2024, the parliamentary motion ‘Un steak, ce n’est pas du soja!’ called on the Federal Council to amend the law to prohibit plant-based products from using meat-associated terms.⁶ While inspired by the French regulatory approach,⁷ the Federal Council expressed concern that banning commonly used terms such as ‘escalope de soja’ or ‘steak de céleri à griller’ would place Swiss producers at a disadvantage compared to international competitors and risk hindering innovation in the food sector.⁸

These developments mirror a fragmented legal landscape across Europe. While the Court of Justice of the European Union banned dairy-related terms for plant-based alternatives in 2017,⁹ it ruled in 2024 that names like ‘vegan burger’ are permissible for meat substitutes.¹⁰ There is, as yet, no harmonised legal standard – either at the European level or within Switzerland – regarding what constitutes misleading labelling in the context of vegan products.

One of the many ironies of contemporary food labelling law emerges when comparing familiar, uncontroversial designations with those scrutinised in recent case law. It is perfectly lawful, for instance, to market a confectionery item under the label ‘chocolate bunny’ without anyone fearing that consumers might be deceived into expecting animal meat or questioning the absence of rabbit in the ingredients.¹¹ Yet, in stark contrast, a plant-based producer is prohibited from using the wording ‘planted chicken’ for a vegan substitute, on the premise that such wording would mislead the average consumer as to the product’s composition. This paradox exposes a deeper tension in the regulatory fiction of the average consumer: sophisticated enough to understand that chocolate animals are harmless seasonal treats, yet presumed incapable of grasping that planted chicken refers to a meat-free innovation. The contrast invites critical reflection on whether the legal yardstick of the average consumer is itself shifting – elastic in some contexts, rigid in others – and how this variability shapes the evolution of food labelling standards.

Methodologically, this paper combines a close reading of statutory and case law with a critical assessment of their coherence and implications for innovation and sustainability. The outcome of such labelling disputes has practical significance not only for legal doctrine but also for food producers, consumers, and policymakers seeking to foster sustainable dietary transitions.

This paper proceeds as follows. It first outlines the relevant framework of Swiss food law before turning to the recent test case on plant-based chicken products. After presenting both the cantonal first instance decision and the subsequent ruling of the Federal Tribunal, it offers a critical analysis of the reasoning adopted and its broader implications for consumer protection and sustainability. The discussion then examines the paradoxical marketing turn taken by the company in response to the judgment, before concluding with reflections on the regulatory tensions revealed by this case.

II. Swiss Food Law: Labelling Requirements

Swiss food law is built around the overarching objective of ensuring that information provided to consumers is truthful, clear, and sufficient to enable informed choices.¹² The Federal Act on Foodstuffs and Utility Articles (Foodstuffs Act, FSA) and its implementing ordinances establish a comprehensive sys-

5 Tribunal fédéral suisse, Arrêt du 2 mai 2025 (2C_26/2023), Communiqué de presse, Dossier no 211.1/14_2025 (Lausanne, 2 May 2025).

6 Thomas Stettler, ‘24.3273 Motion: Un steak, ce n’est pas du soja!’ (14 March 2024) Groupe de l’Union démocratique du Centre, Conseil national.

7 Case C-438/23 *Protéines France and Others* [2024] ECLI:EU:C:2024:826; The French Decree was brought to the European Court of Justice which understood that French government’s ban to meaty names for plant-based foods was not allowed because EU Member States may not prohibit the use of commonly used terms if they are not legally defined.

8 Thomas Stettler (n 6).

9 Case C-422/16 *Verband Sozialer Wettbewerb eV v TofuTown.com GmbH* (TofuTown) [2017] ECLI:EU:C:2017:567.

10 Case C-438/23 (n 7).

11 This comparison with the ‘chocolate bunny’ was explicitly raised during the oral debates in the case 2C_26/2023 before the Swiss Federal Tribunal in May 2025.

12 Federal Act on Foodstuffs and Utility Articles (Foodstuffs Act, FSA), SR 817.0, 20 June 2014 (in force 1 May 2017), Art. 1.

tem of labelling requirements that mirrors, to a large extent, the regulatory architecture of the European Union.¹³

Swiss food law establishes a detailed framework governing the designation and labelling of foodstuffs, aimed at ensuring correct and non-misleading information for consumers. The central provisions are set out in Article 18 ('Protection against deception') of the Federal Foodstuffs Act¹⁴ and Article 12 ('Prohibition of deception') of the Federal Ordinance on Foodstuffs and Utility Articles (ODAIUs).¹⁵ Presentation, labelling, packaging, and advertising must not mislead consumers, particularly as to a product's composition, production method, shelf life, place of production, origin of raw materials, or any special properties or value of the product.

The decisive benchmark is the presumed expectations of the 'average consumer,' understood as reasonably well-informed, attentive, and circumspect.¹⁶ Against this background, Articles 18 and 19 FSA require that substitutes and imitation products be labelled and marketed in a way that allows consumers to recognise the true nature of the product and to distinguish it from comparable products of animal origin.¹⁷

Swiss law goes further by granting the Federal Department of Home Affairs (FDHA) the power to define specific designations for certain food categories and to set binding requirements for their use (Art. 14 ODAIUs).¹⁸ A foodstuff may only bear a legally reserved designation if it meets all applicable specifications. This is particularly strict for products traditionally associated with animal origin: terms such as milk, cheese, and meat are defined and protected under the FDHA Ordinance on Foodstuffs of Animal Origin (ODAIAn)¹⁹ and may not be used for plant-based products. Thus, designations like 'vegan cheese' or 'oat milk' are not admissible unless covered by specific traditional exceptions.²⁰

For plant-based meat alternatives, it is not permitted to refer to an animal species in the product name – even with an explicit qualifier such as 'vegan' or 'plant-based' (e.g., 'vegan beef fillet' or 'soy-based veal sausage').²¹ However, certain generic terms that are not themselves animal-specific, such as fillet, steak, escalope, brochette, minced, hamburger, or sausage, may be used for vegetarian or vegan alternatives, provided the plant-based origin is indicated (e.g., 'soy-based escalope').²²

Reserved designations for specific meat preparations are exhaustively listed in Article 9(4) ODAIAn²³ (e.g., 'cervelas', 'mortadella', 'jambon cru', 'saucisse de Vienne'). These may not be used for plant-based products. By contrast, similar-sounding but phonetically or orthographically distinct terms – such as 'Velami' or 'Veganaise' – are admissible, on the premise that the average consumer can distinguish them from their animal-based counterparts.

Finally, Swiss law recognises exceptions based on traditional or historical usage.²⁴

These exceptions are, first of all, derived from the list of exceptions established by the European Union (Article 14(2)(a) ODAIUs).²⁵ Since 1 July 2020, certain designations with a well-established cultural meaning, or that unambiguously describe a characteristic of the product, are permitted even if they would otherwise conflict with reserved categories. For instance, lait d'amande ('almond milk') appears on the French list due to its long-standing traditional use,²⁶ and latte di mandorla is likewise permitted in Italian.²⁷ By contrast, the equivalent German term Mandelmilch is not included. A similar pattern emerges with 'Erdnussbutter' (peanut butter) in German and 'beurre de cacahuète' in French, both of which are allowed, whereas no equivalent exists in

13 Alice Reichmuth, 'Overview of Swiss Food Law' (2008) 3 European Food and Feed Law Review 10.

14 Foodstuffs Act, Art.18.

15 Ordinance on Foodstuffs and Utility Articles (ODAIUs), SR 817.02, 16 December 2016 (in force 1 May 2017).

16 Office fédéral de la sécurité alimentaire et des affaires vétérinaires (OSAV), Lettre d'information 2020/3.1: Alternatives végétaliennes et végétariennes aux produits d'origine animale (30 September 2021).

17 *ibid.*

18 ODAIUs, SR 817.02, Art.14 (1).

19 Ordinance of the FDHA on Foodstuffs of Animal Origin (ODAIAn), SR 817.022.108, 16 December 2016 (in force 1 May 2017), Art. 2(a)–(f), 4 (meat); Art. 32(1) (milk); Art. 50 (cheese).

20 Lettre d'information 2020/3.1 (n 16).

21 *ibid.*

22 *ibid.*

23 ODAIAn, SR 817.022.108 Art, 9(4).

24 ODAIUs, SR 817.02, Art. 14(2).

25 Commission Decision 2010/791/EU of 20 December 2010 listing the products referred to in the second subparagraph of point III(1) of Annex XII to Council Regulation (EC) No 1234/2007 [2010] OJ L336/55.

26 *ibid.*

27 *ibid.*

Italian.²⁸ Switzerland's unique situation of having four official languages (German, French, Italian, Romansh) renders these divergences particularly salient. They highlight the tensions and inconsistencies inherent in labelling rules: how can French-speaking consumers be legally presumed to understand that 'almond milk' is not of animal origin, while German-speaking consumers are presumed not to?

In addition, the Federal Department of Home Affairs (FDHA/DFI) may itself designate exceptions (Article 14(2)(b) ODAIOUs and Annexe 5a OIDA).²⁹ At present, only the term 'Fleischkäse' is listed.³⁰ This designation is strikingly paradoxical: literally meaning 'meat cheese,' it refers to a product composed exclusively of meat, despite the reference to cheese in its name. This illustrates the historically contingent nature of certain accepted terms and underscores the regulatory contradictions that persist within the framework of protected designations.

It is noteworthy (and visible from the references cited above) that in addition to the statutory and regulatory provisions, the Federal Food Safety and Veterinary Office (OSAV) has provided interpretative guidance on the application of the prohibition of deception in the context of plant-based alternatives. This guidance is set out in its 'Information Letter 2020/3.1 Alternatives végétaliennes et végétariennes aux produits d'origine animale'.³¹ Although such information letters do not have the status of formal legislation or binding ordinances, they are influential administrative documents that shape enforcement practice and signal the administration's interpretative stance. Their normative value is therefore indirect: they are not legally binding on courts or private actors, yet they often guide cantonal authorities and industry operators in determining compliant labelling practices. From a critical perspective, the reliance on such soft law-instruments raises questions about legal certainty and democratic legitimacy.³² While they can provide welcome clarity in areas of rapid innovation, they may also cement restrictive interpretations without the benefit of legislative debate or judicial scrutiny, thereby influencing market behaviour in ways that go beyond their formal legal authority.

III. Swiss Test Case: Plant-Based Chicken

It is against this regulatory backdrop that the first significant legal dispute concerning the labelling of

vegan products reached the Swiss courts. This test case, centring on the permissibility of animal species designations for plant-based alternatives, provides a concrete illustration of how the statutory provisions and interpretative tensions described above are applied – and contested – in practice.

1. Cantonal First Instance Decision

Planted Foods is the largest start-up producing meat substitutes in Switzerland. Founded in 2019, the company from Zurich sells products such as 'planted-kebab', 'planted-steak', 'planted-chicken', and others.³³ In 2019, The Zurich Cantonal Laboratory, which oversees food and water safety in the canton, had objected to Planted's labelling and asked it to refrain from using product names such as 'planted chicken', 'like chicken', 'vegan pork', 'like pork' or 'Güggeli' (a Swiss-German term for chicken).³⁴ Planted Foods rejected the request before the Zurich Administrative Court, which decided in November 2022 in favour of the start-up.³⁵

In its decision, Zurich's Administrative Court found that the contested labels are compatible with the provisions of food law on the protection against misleading advertising. The Court highlighted that using the adjectives 'vegetarian' or 'vegan' and 'plant-based' in connection with an animal name indicates that the food in question is not a meat product, but rather a substitute product.³⁶ The Court stated that

28 *ibid.*

29 ODAIOUs, Art.14; Ordinance of the FDHA on Food Information (OIDA), SR 817.022.16, 16 December 2016 (in force 1 May 2017), Art 7a.

30 Ordinance of the FDHA on Food Information (OIDA), SR 817.022.16, 16 December 2016 (in force 1 May 2017), Annex 5a.

31 Lettre d'information 2020/3.1 (n 16).

32 Alexandre Flückiger, 'Soft Law Instruments in Public Law' in Andreas Ladner and others (eds), *Swiss Public Administration: Making the State Work Successfully* (Springer International Publishing 2019) <https://doi.org/10.1007/978-3-319-92381-9_7> accessed 17 July 2025.

33 Planted, 'All Planted Products | The New Standard for Plant-Based Meat' (Planted) <<https://eatplanted.com/collections/products>> accessed 28 May 2025.

34 Verwaltungsgericht Zürich (VG ZH), Decision VB.2022.00270, 10 November 2022.

35 *ibid.*

36 *ibid.*, para. 4.4.

the conclusion of Zurich Cantonal Laboratory, according to which the mention of animal species always constitutes a risk of deception, regardless of the specific context and other information provided on the packaging, could not be followed.³⁷

Additionally, it affirmed that the mention of an animal name on the products in question ('like chicken' or 'like pork') can be a tool to inform the public, in line with the legal requirement for adequate food information (Art. 1(d) of the Federal Foodstuffs Act).³⁸ As such, it may even be appropriate and necessary for meat substitute products to evoke certain associations with the animal-derived products they are intended to replace, provided that it is indicated that they are not, in fact, meat products.³⁹

The Court further underscored that, according to Federal Tribunal jurisprudence, the overall appearance of a food product must be considered when assessing potential misleading effects and not just a single word printed on it. Thus, the factual description 'plant-based food made from pea protein' must be taken into account.⁴⁰ The Court goes further and explains that meat substitutes may even need to evoke certain associations with animal-based products for which they are intended, as long as it is clearly labelled that they are not meat products.⁴¹

Finally, the decision calls attention that the challenged packages feature, on the front, a reference to the 'Swiss Vegan Awards 2020' and a prominently placed advertising slogan, which promotes the product as a better alternative to meat by referencing the avoidance of animal slaughter or climate change. On

the back, the packaging displays the word 'VEGAN' in eye-catching colours, along with the well-known 'V-label'.⁴² The Court concludes that, in light of this specific design, and consistent with the results of the appellant's consumer survey, it can be assumed that the packaging, due to its overall presentation, does not create the misleading impression among average consumers that the products are meat products.⁴³

In January 2023, Switzerland's Federal Department of Home Affairs (FDHA) appealed Zurich's Administrative Court decision in this matter.

2. Federal Tribunal Decision

In May 2025, the Swiss Federal Court overturned the decision by Zurich's Administrative Court, and the majority of the judges found that expressions such as 'planted chicken', 'like chicken', or 'like pork', used by Planted Foods, were misleading to consumers.⁴⁴ The decision emphasised that the term 'chicken' refers to poultry, that is, an animal species defined and protected under the FDHA Ordinance on Foodstuffs of Animal Origin (ODAIAn).⁴⁵

Consequently, the term cannot be used for products that do not contain any meat. According to Article 14 of the Swiss Ordinance on Foodstuffs and Utility Articles, foodstuffs may only be designated by the specific name of a particular food if they meet the relevant specifications and fulfil the associated requirements; such names are reserved accordingly.⁴⁶ Thus, the Court concluded that a plant-based product that refers to the term 'chicken' and does not contain meat constitutes deception.⁴⁷ However, generic terms that are not themselves animal-specific, such as fillet, steak, escalope, brochette, minced, hamburger, or sausage, remain possible.

It is noteworthy that the proceedings leading up to the Federal Tribunal's judgment extended over a considerable period. Although the underlying dispute concerned a national matter, the timing of the decision suggests a deliberate wait-and-see approach. In particular, it appears that the Tribunal refrained from handing down its verdict until the Court of Justice of the European Union (CJEU) issued its decision on vegan labelling in France.⁴⁸ While Switzerland is not a member of the European Union, Swiss food law is closely aligned with EU food law, primarily for reasons of market access and

37 *ibid.*

38 *ibid.*, para.4.5.

39 *ibid.*

40 *ibid.*

41 *ibid.*

42 *ibid.*

43 *ibid.*

44 Arrêt 2C_26/2023 (n 5).

45 At the time of writing, only the oral pronouncement and summary of the Federal Tribunal's decision, delivered in public session in May 2025, are available. The written judgment with the full reasoning and detailed justifications has not yet been published, so the present analysis necessarily relies on the arguments and indications given orally by the court and in its press release.

46 ODAIOUs, SR 817.02, Art.14, para. 2

47 Arrêt 2C_26/2023 (n 5).

48 Case C-438/23 (n 7).

the free movement of goods.⁴⁹ This alignment serves both economic and regulatory purposes: harmonisation with EU standards facilitates cross-border trade and prevents technical barriers. Against this backdrop, it is plausible to interpret the length of the Swiss proceedings as reflecting an intention to take into account the evolving European jurisprudence before crystallising its position on the permissibility of animal species- terms for plant-based products.⁵⁰

IV. Critical Analysis

The Federal Tribunal's decision reveals a deeper tension at the heart of contemporary food law. First, there is an inherent conflict between two regulatory objectives: consumer empowerment through clear information (to prevent deception or confusion) and the rigid technical definitions of meat and milk, which are applied in ways that often reflect industry protectionism.⁵¹ The prohibition on designations such as 'planted chicken' sits uneasily beside the unproblematic acceptance of terms like 'chocolate bunny,' which no reasonable consumer would interpret as containing meat. This paradox underscores the elasticity – and at times arbitrariness – of the 'average consumer' standard, which appears context dependent and shaped by entrenched market interests rather than by genuine risks of deception.

Second, the ruling raises broader questions about the alignment of food law with sustainability objectives. For instance, the Swiss Dietary Recommendations recognise that animal-based foods have a higher environmental impact than plant-based ones and

therefore advise that meat, fish, and other animal products be consumed in moderation.⁵² In the EU, the Farm to Fork Strategy aims to make food systems fair, healthy, and environmentally friendly by recognising the strong need to change current food consumption patterns for environmental and health reasons, promoting a transition to plant-based diets.⁵³ Thus, in an era of climate urgency and public policy commitments to promote plant-based diets, denying familiar culinary terminology to vegan products creates legal obstacles to the green, sustainable food transition. Instead of facilitating innovation and encouraging environmentally friendly choices, such jurisprudence entrenches traditional categories and hampers the communicative clarity that would allow plant-based products to compete fairly in the market. Beyond these central contradictions, several further aspects deserve critical attention:

Normative dissonance:

While regulatory frameworks justify restrictive labelling in the name of consumer protection, such rigidity paradoxically undermines policy goals that promote sustainable and plant-based consumption.

*Regulatory asymmetry:*⁵⁴

The inconsistency between tolerating figurative terms in confectionery (chocolate bunny, Easter lamb) and prohibiting analogous terms in plant-based meat substitutes highlights a lack of coherence in consumer protection standards.

*Innovation chilling effect:*⁵⁵

The decision risks discouraging investment and creativity in the plant-based sector, as companies face

49 Alice Reichmuth, 'Overview of Swiss Food Law' (n 13).

50 It will be interesting to follow how this debate unfolds at the EU level and influences Swiss food law, especially since the European Commission recently proposed restrictions on the use of meat-related names for plant-based foods as part of the upcoming review of the CMO Regulation (Reg 1308/2013), aiming to enhance consumer transparency and protect the cultural significance of meat products. The proposal defines "meat" exclusively as edible parts of animals and lists 29 prohibited terms for plant-based products, including "beef", "chicken", "pork", "bacon", "breast", "wings", and "ribs". Ironically (and incoherently), terms like "burger" or "sausage", which arguably carry equally strong meat-related connotations, remain outside the proposed list of banned words. European Commission, *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1308/2013* COM(2025) 553 final, annexe 1.

51 The underlying idea within the notion of consumer empowerment is that if the food information given to the consumer is sufficient, accurate, non-misleading, clear, and easy to understand, the

consumer is well-informed and consequently empowered. Nikhil Gokani, 'Healthier Food Choices: From Consumer Information to Consumer Empowerment in EU Law' (2024) 47 *Journal of Consumer Policy* 271.

52 Federal Food Safety and Veterinary Office, 'Swiss Dietary Recommendations' (2024) <<https://www.blv.admin.ch/blv/en/home/lebensmittel-und-ernaehrung/ernaehrung/empfehlungen-informationen/schweizer-ernaehrungsempfehlungen.html>> accessed 17 July 2025.

53 European Commission, Commission, 'A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system' (Communication) COM(2020) 381 final.

54 Daniele Pisanello and Luchino Ferraris, 'Ban on Designating Plant Products as Dairy: Between Market Regulation and Over-Protection of the Consumer' (n 3).

55 Annisa Leialohilani and Alie de Boer, 'EU Food Legislation Impacts Innovation in the Area of Plant-Based Dairy Alternatives' (2020) 104 *Trends in Food Science & Technology* 262.

uncertain or restrictive labelling rules despite growing consumer familiarity with such products.

Evolving consumer literacy:

Empirical studies show that consumers increasingly understand the nature of plant-based alternatives.⁵⁶ Persisting with outdated interpretations of the ‘average consumer’ ignores this evolution and perpetuates unnecessary paternalism.

Need legislative clarity:

The case ultimately signals the urgency of clearer, forward-looking legislative guidance that reconciles consumer protection with sustainability imperatives and provides legal certainty to innovators in the plant-based market.

Together, these elements reveal that the decision in 2C_26/2023 is not merely a technical interpretation of labelling law but a touchstone for broader debates on the trajectory of food regulation in the face of environmental and social transformation.

V. Paradoxical Turn: From Judicial Setback to Marketing Tool

The aftermath of 2C_26/2023 illustrates an unprecedented and conceptually striking phenomenon in Swiss food law: a market actor transforming a disfavorable judicial decision into a branding asset. Following the Federal Tribunal’s refusal to allow animal-species designations such as ‘planted.chicken’ for vegan products, the company at the heart of the dispute launched a campaign explicitly referencing the rul-

ing, with slogans like ‘too close to chicken they said. ‘Thank you’ we said’ and ‘it’s so real we needed a court to decide what it is.’⁵⁷

From a legal perspective, this manoeuvre departs from the typical reputational logic of compliance disputes. Instead of perceiving the court’s decision as a stigma, the company reframed it as proof of product authenticity, leveraging the authority of the highest Swiss court as an implicit quality seal. This inversion disrupts the usual semiotics of regulatory adjudication, where adverse decisions signify non-conformity or deception, and turns them into evidence of innovation and product excellence. In doing so, the company appropriates the court’s restrictive interpretation of food labelling rules as part of its market narrative, blurring the boundary between legal censure and consumer persuasion. The case thus sheds light on a novel interplay between judicial oversight and commercial communication, raising questions about the evolving symbolic capital of regulatory decisions in the plant-based food sector.

VI. Conclusion

The food market is undergoing profound change, with consumers increasingly exposed to – and familiar with – products designed to replace traditional foods or ingredients of animal origin. The controversy over the labelling of plant-based products in Switzerland illustrates how established legal categories are being tested by innovation and changing dietary practices. Beyond the technical outcome of 2C_26/2023, the case exposes deeper tensions in food law, between protection and openness, between historical definitions and emerging consumer expectations. It also demonstrates how legal decisions can have unintended cultural and market effects, as seen in the company’s striking marketing response. Rather than settling the matter, the judgment highlights the need for a regulatory framework that not only guards against deception but also accommodates linguistic and conceptual space for sustainable, plant-based innovation. In this sense, the debate is less about a single word on a label and more about how law can adapt to the evolving landscape of food and society.

56 Jareb A Gleckel, ‘Are Consumers Really Confused by Plant-Based Food Labels? An Empirical Study’ (2021) 12(2) *Journal of Animal and Environmental Law*, this study shows results from the US; In Europe according to the BEUC “most consumers do not appear to be concerned about the naming of veggie ‘burgers’ or ‘sausages’, as long as the products are clearly identifiable as vegetarian/vegan”, (BEUC), *One Bite at a Time: Consumers and the Transition to Sustainable Food* (2 June 2020); Eugenio Demartini and others, ‘Would You Buy Vegan Meatballs? The Policy Issues around Vegan and Meat-Sounding Labelling of Plant-Based Meat Alternatives’ (2022) 111 *Food Policy* 102310.

57 Planted, ‘No Chicken, no Cry. Keep eating, keep laughing, we keep moving forward #approvedbymeatlovers’ (LinkedIn, 2 May 2025) <https://www.linkedin.com/posts/plantedfoods_approvedbymeatlovers-activity-7325878611834519553-ybQO> accessed 17 July 2025.