



## **Paper for Information: Update on Nutrition and Health Claims**

### **Agenda Item: 2**

Nutrition and Health Claims last appeared on the agenda at the June 2006 meeting. This paper is to update the Committee on the status of the legislation.

## **UPDATE ON NUTRITION AND HEALTH CLAIMS**

### **Latest position**

- 1) The Regulation on nutrition and health claims has now been published as 1924/2007; it came into force on 19 January and will apply from 1 July 2007. The Agency is due to consult on the enforcement measures, together with guidelines to compliance and the final regulatory impact assessment. We are aiming to have the consultation finished and revised versions in place to coincide with the application date.

### **Background**

- 2) The Regulation controls the use of nutrition and health claims by prior authorisation and listing on application from industry. Claims must be substantiated by generally accepted scientific evidence (with some allowance for emerging science) and decisions taken after an opinion from the Nutrition Panel of the European Food Safety Authority (EFSA) – who will validate the science.

### **List of authorised health claims**

- 3) At the June 2006 meeting, when the last update was given, the Committee was particularly interested in the process to authorise health claims. The list of authorised health claims is to be begun by submissions from Member States. This will reflect health claims currently on use in the market and supported by references to generally accepted scientific evidence and conditions of use where appropriate. EFSA is expected to produce guidance on new applications for authorisation which will require supporting scientific dossiers, but have produced no guidance for this initial list.

### **UK list of health claims**

- 4) The UK opened its list of health claims in October 2006, ahead of publication, to ensure industry had as long a lead time as possible to acclimatise to the new conditions and clarify how they should respond. Officials in the UK have had numerous meetings with industry leading up to this point, one result of which was that trade bodies combined at the EU level to produce industry wide lists. This work is still ongoing. Nevertheless, submission is required at national level and the Agency will have to submit the UK list before 19 January 2007; we will confirm a target date for submission of all claims of 19 September 2007.
- 5) Industry has constantly sought clarification about the definition of “generally accepted scientific evidence” and the Agency has referred this question to the European commission and EFSA, but to no avail. For the UK list of health claims we have had to take a position on what was expected in terms of supporting references and conditions of use. While we have not been categorical here, because it will be for EFSA to give an opinion on the scientific substantiation, we have had to give guidance on what we might expect EFSA to look for (this is attached). However, we will also have to decide, prior to submission of the UK

list, whether we have any serious issues with the health claims submitted by industry.

### **Finalising the UK list**

- 6) Our main consideration here will be a) eligibility for this list and - in this connection - b) making a decision about what level of science would be considered sufficient to substantiate a claim. Given EFSA's central role in this and that we would not want to pre-empt that process, we are likely to be inclusive and where there is room for doubt, defer to EFSA. This means we will concentrate on obvious exclusions from the list. Reliance on non-published data without peer review, including references to web sites, and practice in other countries would be excluding factors. As would publications that would be seen as having no provenance, no robust selection procedures, etc. Text book references would not be sufficient without supporting references, and again the quality of the publication would be a factor. While we would try to ensure that any reference in support of a claim was representative of the totality of the science and demonstrated a balance in favour of the position taken, these additional layers begin to stray into the domain of EFSA, and we will probably not have the resource to do a thoroughgoing review of the evidence submitted.

### **Nutrient profiles**

- 7) Claims may be restricted if the food making the claim does not meet a nutrient profile to be established by the Commission on advice from EFSA within 12 months of publication. If one nutrient fails the profile, a nutrition claim may be allowed, but with a statement "high in [name of failed nutrient]". More than one failing nutrient will prohibit any claims other than a reduced claim. Alcoholic beverages cannot carry claims other than reduction in energy and alcoholic content (such as 'low alcohol'). Stakeholders will be consulted on establishing nutrient profiles.
- 8) We have begun discussions in the EU Commission working group on agreeing terms of reference to EFSA, which describes the process in more detail, and the UK has shared our experience with nutrient profiles. We have been influential in shaping the Commission's approach on process, although the criteria for the EU nutrient profile will differ from those in the UK model, not least because of the different objectives, but also because the Commission has tried to reduce the burden on EFSA for advice in this area. We would expect UK databases on nutritional composition of food and intake levels to be useful to EFSA in its role here.