



**Paper for information: Nutrition and health claims
legislation update**

At the SACN meeting in October 07, Members requested an update on the status of the nutrition and health claims legislation.

Agenda item: 3

UPDATE ON NUTRITION AND HEALTH CLAIMS

Latest position

1. The Regulation on nutrition and health claims applied from 1 July 2007, although the transition arrangements mean that full enforcement of certain claims applies from 2010. Agency guidance to compliance is due to be finalised and published in February 2008. European Commission guidance on interpretation of the Regulation was finalised and published in January 2008. The UK list of candidate health claims for the Community list was submitted to the Commission by the deadline of 31st January 2008.

Background

2. The Regulation controls the use of nutrition and health claims by prior authorisation and listing of claims. Claims submitted by industry 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. The list of authorised health claims will be compiled from submissions from industry to the competent authorities in Member States. These claims cover the growth, development and function of the body, psychological and behavioural functions, and slimming claims currently in use on the market. Submissions must be supported by references to generally accepted scientific evidence and conditions of use where appropriate. Member States must check these claims for eligibility and pass them on for EFSA to make a full assessment of the science. While there is no guidance as to how EFSA will assess these claims, EFSA has published guidance on how it will assess health claims about disease risk reduction, children's development and health and claims based on emerging science or proprietary data that require full supporting scientific dossiers.

UK list of health claims

4. The UK list of health claims closed on 21 September. We received submissions for claims about the beneficial health effects of proteins, fats, carbohydrates, vitamins, minerals, probiotics, fibre, food categories such as oats and nuts, and other substances commonly found in or added to foods or food supplements, including groups of substances such as antioxidants, plants and plant extracts. We have also had a number of slimming claims for food replacements and whole diets. In total we received more than 2,500 claims.

Finalising the UK list

5. As EFSA will be assessing the science substantiating claims and advising the Commission before decisions on authorisation of health claims are taken, the FSA's consideration has been limited to ensuring that sufficient information is provided in the submission to enable EFSA to assess the claim. The information for submitted claims includes details of: the food or food ingredient; its benefit to health; conditions of use and example of wording for a claim; and references to scientific studies to substantiate the claim, including human studies. We have not been able to apply this check in the case of plant or herbal substances, which have

been submitted in a separate list. This is because of existing EU legislation on traditional herbal remedies which allows statements of effect, yet does not require the same level of science that we expect EFSA will want to apply in the case of health claims. There are also differences in national rules applying to these substances which might affect the acceptability of claims. We have brought this issue to the Commission's attention for a ruling in the next phase of the Article 13 process.

EU - Next Steps

6. The Commission intends to consolidate lists from Member States into one draft Community list that can be referred to EFSA by May 2008, with the help of a small experts' group. This group, which includes the UK, will seek to: eliminate any duplication within the list; ensure conditions of use are collected for EFSA to consider; ensure the wording for claims is not ambiguous or goes beyond the scope of Article 13; and finally to ensure that the primary evidence is from human studies and relevant to populations other than children. Industry may be consulted in this process. The Commission has stated that where the marketing of certain substances is not harmonised (that is, one member state may restrict sale of a substance, where another may not) this will be spelled out in the conditions of use, but will not necessarily invalidate a claim.
7. EFSA must complete its work in time to allow the Commission to propose and adopt the final Community list of health claims by 31 January 2010.

Nutrition Division
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