

Nutrition and health claims made on foods:

Commission implementing powers

2006/0195(COD) - 15/01/2008 - Final act

PURPOSE : to amend the Regulation on nutrition and health claims made on foods, in order to align it with the new Council Decision 2006/512/EC amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (comitology).

LEGISLATIVE ACT: Regulation (EC) N° 107/2008 of the European Parliament and of the Council amending Regulation (EC) N° 1924/2006 on nutrition and health claims made on foods as regards the implementing powers conferred on the Commission.

CONTENT: Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny (see [CNS/2002/0298](#)) to be used for the adoption of implementing measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

It is recalled that on 19 January 2007, Regulation 1924/2006 on nutrition and health claims made on foods entered into force. The Regulation contained a list of permitted nutrition claims, including a description of their conditions of use. However, it foresaw the development of an additional list of health claims based on generally accepted scientific evidence via the Article 13 procedure. This involves the submission of health claims (under the form of concise dossiers providing references on substantiation data for specific ingredient health effects and conditions of use) to national authorities, which will then send their national lists of health claims to the European Commission by 31 January 2008. Following EFSA evaluation, the European Commission will set up the 'Community list' of permitted health claims by end January 2010.

Moreover, additional procedures had been established for the approval of health claims based on newly developed scientific evidence or including a request for the protection of proprietary data, reduction of disease risk claims and claims referring to children's development and health.

Regulation 1924/2006 contained a variety of transition periods which applied to products already on the market, or certain claims already in use. It had no transition period for claims referring to children's development and health

This Regulation provides that the regulatory procedure with scrutiny should apply to the following:

- to adopt Community measures concerning the labelling, presentation and advertising of certain foods;
- to establish derogations from certain provisions of Regulation (EC) N° 1924/2006;
- to establish and update nutrient profiles and the conditions and exemptions under which they can be used;
- to establish and/or amend lists of nutrition and health claims;
- to amend the list of foods in respect of which the making of claims is restricted or prohibited.

Furthermore it provides that when data protection provisions apply, the authorisation restricted to use by an individual operator should not prevent other applicants from applying for authorisation to use the same claim. Where at the applicant's request for the protection of proprietary data, the Commission proposes to restrict the use of the claim in favour of the applicant:

- a decision on the authorisation of the claim shall be taken in accordance with the regulatory procedure (i.e. the new regulatory procedure with scrutiny does not apply at this point). In such case, the authorisation, if granted, shall expire after five years;
- before the expiry of the five-year period, if the claim still meets the conditions laid down in the Regulation, the Commission shall submit a proposal for authorisation of the claim without restriction for use which shall be decided on in accordance with the regulatory procedure with scrutiny.

ENTRY INTO FORCE: 04/03/2008.