Nutrition and health claims made on foods

2003/0165(COD) - 20/12/2006 - Final act

PURPOSE: to adopt Community rules on the use of nutrition and health claims on foods.

LEGISLATIVE ACT: Regulation 1924/2006/EC of the European Parliament and of the Council on nutrition and health claims made on foods.

CONTENT: the Council adopted, with a qualified majority, a Regulation concerning the addition of vitamins and mineral substances to certain types of food, having approved all of the amendments adopted by Parliament at second reading. The Swedish and Danish delegations voted against the Regulation with the Irish and Dutch delegations abstaining.

An increasing number of foods labelled and advertised in the Community bear nutrition and health claims. In order to ensure a high level of consumer protection and in order to facilitate consumer choice, products put on the market need to be safe as well as properly labelled. Differences between national provisions relating to such claims may impede the free movement of foods and create unequal conditions of competition. The purpose of the present Regulation, therefore, is to adopt rules on the use of nutrition and health claims on foods.

It does so by harmonising the provisions laid down by law, regulation or administrative action in the Member States relating to nutrition and health claims. It applies to nutrition and health claims made in commercial communications, whether the labelling presentation or advertising of foods be delivered as such to the final consumer and it includes foods which are placed on the market unpacked or supplied in bulk. Food intended for restaurants, hospitals, schools, canteens and similar mass caterers will similarly be covered by the scope of this Regulation.

However, a trade mark, brand name or fancy name appearing in the labelling, presentation or advertising of food may be used without undergoing the authorisation procedures – on condition that it is accompanied by a related nutrition or health claim in its labelling and advertising.

The use of nutrition and health claims are not allowed to be:

- false, ambiguous or misleading;
- give rise to doubt about the safety and/or the nutritional adequacy of other foods;
- encourage or condone excess consumption of a food;
- state, suggest or imply that a balanced and varied diet can not provide appropriate quantities of nutrients in general; or
- refer to changes in bodily functions which could give rise to or exploit fear in the consumer.

Indeed, the use of nutrition and health claims may only be used on condition that:

- the presence, absence or reduced content in a food or category of food is established by generally accepted scientific data;

- the nutrient or other substance is contained in significant enough quantities to produce the nutritional effect claimed as established by generally scientific data; and

- the nutrient is in a form that is available for use by the body.

The Commission will be responsible for preparing, by 19 January 2009, a specific nutrient profile and the conditions (including exemptions), which need to be respected vis-à-vis the use of nutrition and health claims on foods and/or categories of foods.

As far as nutrition claims are concerned, the Regulation specifies that they many only be used if they are listed in the Annex to this Regulation. As far as health claims are concerned, on the other hand, they are to be prohibited unless they comply with the general requirement of this Regulation. Further they may only be made if the labelling contains a statement indicating the importance of a varied and balance diet and a healthy lifestyle; the quantity of the food and pattern of consumption has a beneficial effect; a statement noting who should avoid using the food; and a warning for products that are likely to present a health risk if consumed to excess. Claims relating to weight loss and/or negative messages to consumers should they not buy the food are prohibited.

The Commission will establish and maintain a Community Register on nutrition and health claims made on food. Procedures have been put in place regarding: applications for authorisation; a Community authorisation; and the modification, suspension and revocation of authorisations.

On a final point transitional measures are foreseen. They state:

- Foods placed on the market or labelled prior to the date of application of this Regulation, which do not comply with this Regulation, can be marked until their expiry date – but no later than 31 July 2009.

- Products bearing trade marks or brand names existing before 1 January 2005 and which do not comply with this Regulation, may continue to be marketed until 19 January 2022, after which time the provisions of this Regulation must apply.

- Nutrition claims which have been made before 1 January 2005 in compliance with national provisions and which are not included in the Annex may continue to be used until 19 January 2010.

ENTRY INTO FORCE: 19 January 2007.

APPLICATION: 1 July 2007.