

Nutrition and health claims made on foods: Commission implementing powers

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The European Parliament adopted a resolution drafted by Adriana **POLI BORTONE** (UEN, IT) and made some amendments to the Commission's proposal. These amendments are aimed at reinforcing Parliament's role by extending the areas in which the regulatory procedure with scrutiny should be applied. Negotiations conducted with the Commission and the Council with a view to reaching an agreement ahead of the plenary vote have resulted in a compromise package supported by all the political groups. Compared to the Commission's original proposal, Parliament's role in the execution of the Regulation has been strengthened considerably.

It is recalled that on 19 January 2007, Regulation 1924/2006 on nutrition and health claims made on foods entered into force. The Regulation currently only contains a list of permitted nutrition claims, including a description of their conditions of use. However, it foresees 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 have 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.

The Regulation contains a variety of transition periods which apply to products already on the market, or certain claims already in use. It has currently no transition period for claims referring to children's development and health

Parliament provided in its amendments 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) No 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 provided 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. Parliament stipulated that, 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.