Basic information

2003/0165(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Nutrition and health claims made on foods Amending Directive 2000/13/EC 1999/0090(COD) Amended by 2006/0195(COD) Amended by 2007/0128(COD) Amended by 2008/0028(COD) See also 2011/2916(RPS) **Subject** 3.10.10 Foodstuffs, foodstuffs legislation 4.20.05 Health legislation and policy 4.60.02 Consumer information, advertising, labelling	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	POLI BORTONE Adriana (UEN)	21/09/2004

Former committee responsible	Former rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	POLI BORTONE Adriana (UEN)	21/09/2004
ENVI Environment, Public Health, Consumer Policy	NOBILIA Mauro (UEN)	09/09/2003

Former committee for opinion	Former rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	NIEBLER Angelika (PPE-DE)	31/08/2004
IMCO Internal Market and Consumer Protection (Associated committee)	STUBB Alexander (PPE-DE)	31/08/2004
JURI Legal Affairs and Internal Market	KAUPPI Piia-Noora (PPE-DE)	11/09/2003
JURI Legal Affairs and Internal Market (Associated committee)	WALLIS Diana (ELDR)	18/02/2004

	ITRE Industry, External Trade, Research, Energy		

Council of the European Union

Council configuration	Meetings	Date
Employment, Social Policy, Health and Consumer Affairs	2627	2004-12-06
Employment, Social Policy, Health and Consumer Affairs	2699	2005-12-08
Employment, Social Policy, Health and Consumer Affairs	2586	2004-06-01
Employment, Social Policy, Health and Consumer Affairs	2663	2005-06-02
Employment, Social Policy, Health and Consumer Affairs	2733	2006-06-01
Employment, Social Policy, Health and Consumer Affairs	2549	2003-12-01
Transport, Telecommunications and Energy	2754	2006-10-12
Agriculture and Fisheries	2643	2005-02-28

European Commission

Commission DG	Commissioner
Health and Food Safety	KYPRIANOU Markos

Key events

Date	Event	Reference	Summary
16/07/2003	Legislative proposal published	COM(2003)0424	
01/09/2003	Committee referral announced in Parliament, 1st reading		
01/12/2003	Debate in Council		
01/06/2004	Debate in Council		
16/09/2004	Committee referral announced in Parliament, 1st reading		
06/12/2004	Debate in Council		Summary
28/02/2005	Debate in Council		Summary
21/04/2005	Vote in committee, 1st reading		Summary
02/05/2005	Committee report tabled for plenary, 1st reading		
12/05/2005	Committee report tabled for plenary, 1st reading	A6-0128/2005	
25/05/2005	Debate in Parliament		
26/05/2005	Decision by Parliament, 1st reading	T6-0201/2005	Summary
26/05/2005	Results of vote in Parliament		
08/12/2005	Council position published	09858/3/2005	Summary
19/01/2006	Committee referral announced in Parliament, 2nd reading		
21/03/2006	Vote in committee, 2nd reading		Summary

29/03/2006	Committee recommendation tabled for plenary, 2nd reading	A6-0122/2006	
15/05/2006	Debate in Parliament		
16/05/2006	Decision by Parliament, 2nd reading	T6-0198/2006	Summary
16/05/2006	Results of vote in Parliament		
01/06/2006	Debate in Council		
12/10/2006	Act approved by Council, 2nd reading		
20/12/2006	Final act signed		
20/12/2006	End of procedure in Parliament		
30/12/2006	Final act published in Official Journal		

Technical information

Procedure reference	2003/0165(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Directive 2000/13/EC 1999/0090(COD) Amended by 2006/0195(COD) Amended by 2007/0128(COD) Amended by 2008/0028(COD) See also 2011/2916(RPS)
Legal basis	EC Treaty (after Amsterdam) EC 095 Rules of Procedure EP 57_o
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/6/32906

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	ITRE	PE349.832	18/03/2005	
Committee opinion	IMCO	PE353.538	25/04/2005	
Committee report tabled for plenary, 1st reading/single reading		A6-0128/2005	12/05/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0201/2005 OJ C 117 18.05.2006, p. 0023-0186 E	26/05/2005	Summary
Committee draft report		PE367.861	19/01/2006	
Amendments tabled in committee		PE370.023	01/03/2006	
Amendments tabled in committee		PE371.744	14/03/2006	
Committee recommendation tabled for plenary, 2nd				

reading		A6-0122/2006	29/03/2006	
Text adopted by Parliament, 2nd reading		T6-0198/2006	16/05/2006	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	14795/2005	23/11/2005	
Council position	09858/3/2005 OJ C 080 04.04.2006, p. 0043-0066 E	08/12/2005	Summary

European Commission

Document type	Reference	Date	Summary
For information	COM(2003)0424	16/07/2003	Summary
Commission communication on Council's position	COM(2006)0002	13/01/2006	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2006)0368	12/07/2006	Summary
Follow-up document	SWD(2020)0095	20/05/2020	
Follow-up document	SWD(2020)0096	20/05/2020	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0308/2004 OJ C 110 30.04.2004, p. 0018-0021	25/02/2004	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2006/1924
OJ L 404 30.12.2006, p. 0009 Summary

Nutrition and health claims made on foods

2003/0165(COD) - 13/01/2006 - Commission communication on Council's position

The Commission welcomes the common position adopted unanimously by the Council, as it maintains the general principles of the proposal of the Commission, especially regarding the requirement that foods meet a certain nutrient profile in order to make claims, and the requirement for certain health claim to go through an authorisation procedure. Numerous amendments proposed by the European Parliament are introduced by the Council in the final text that can be fully supported by the Commission.

Following the invitation of the Council the Commission agrees, in the context of amendments to the Annex, to examine possible clarifications of the claim "source of [name of vitamin/s] and or [name of mineral/s].

Nutrition and health claims made on foods

2003/0165(COD) - 16/07/2003

PURPOSE : to harmonise the provisions laid down by law, regulation or administrative action in Member States which relate to nutrition and health claims in order to ensure the affective functioning of the internal market whilst providing a high level of consumer protection. CONTENT : the proposed Regulation shall apply to nutrition and health claims in the labelling, presentation and advertising of foods to be delivered as such to the final consumer. It shall also apply to foods intended for supply to restaurants, hospitals, schools, canteens and similar mass caterers. Nutrition and health claims not complying with this Regulation shall be considered as misleading advertising within the meaning of Council Directive 84/450/EEC. The existing EU rules on labelling and nutrition labelling, which do not define conditions for the use of nutrition claims and do not allow health claims to be made, are often not properly enforced. Consumers can therefore be misled by claims that have not been properly substantiated. The proposed Regulation will give legal security and address these issues by specifying the conditions for the use of nutrition and health claims, prohibiting certain claims and scientifically evaluating the use of claims in relation to the nutritional profile of foods. No food product will as a consequence be prohibited but claims on food products will have a true meaning for the consumer. The main objectives of this proposal are the following: - to achieve a high level of consumer protection by providing further voluntary information, beyond the mandatory information foreseen by EU legislation; - to improve the free movement of goods within the internal market; - to increase legal security for economic operators; and - to ensure fair competition in the area of foods; - to promote and protect innovation in the area of foods. This proposal covers nutrition and health claims used in the labelling, presentation and advertising of foods. Only nutrition and health claims that are in conformity with the provisions of this Regulation will be allowed on the labelling, presentation and advertising of foods placed on the market within the Community and delivered as such to the final consumer. In addition to the definition of "nutrients" which covers the calorific value and the "traditional" nutrients (protein, carbohydrate, fat, fibre, sodium, vitamins and minerals), it is proposed to cover also "other substances with a nutritional or physiological effect" (for example, antioxidants, probiotic bacteria). Concerning nutrition claims, the proposal states that in order to present consumers and industry with clear benchmarks concerning the use of nutrition claims, clear and simple rules should be set. At international level Codex Alimentarius has developed guidelines for the most commonly used nutrition claims (such as "low", "rich", "light", etc.). Similar criteria also exist in some Member States. The Annex to this proposal provides a list of nutrition claims and their specific conditions of use. This Annex takes into account existing provisions of some Member States, the Codex Alimentarius guidelines, and some Community provisions. For comparative claims, such as "increased" or"reduced", one would ask compared to what. It is therefore necessary that the products being compared are clearly identified to the final consumer. The comparison shall be made between foods of the same category, taking into consideration a range of foods of that category and including other brands. The difference in the quantity of a nutrient and/or energy value should be stated and the comparison should relate to the same quantity of food. As regards the health claims, the proposal stipulates that the use of claims maintains the prohibition on claims referring to the prevention, treatment or cure of a human disease, however a difference between "prevention" and "reduction of a disease risk factor" is made and a derogation is provided. The principle is to provide clear and honest labelling mentions on foods bearing health claims and in particular claims related to the reduction of a risk of a human disease. In order to ensure that health claims are truthful, clear, reliable and useful to the consumer in choosing a healthy diet, the wording and the presentation of health claims should be taken into account in the opinion of the Authority and in the subsequent authorisation procedure. For the sake of transparency and in order to avoid multiple applications in respect of claims, which have already been assessed, a Register of such claims should be established. In order to keep up with scientific and technological developments, the Register should be revised promptly, whenever necessary. Such revisions are implementing measures of a technical nature and their adoption should be entrusted to the Commission in order to simplify and expedite the procedure. Many claims already found on the market make reference to general, non-specific benefits and to general wellbeing. For example: "excellent for your organism", "reinforces the body's resistance", "helps your body resist stress", "purifies your organism", "has a positive effect on your wellbeing", " has an harmonising effect on your metabolism", "helps keep your body feeling good", "preserves youth", etc; all currently found on foods sold within the Community. Not only are these claims vague and often meaningless, but also they are not verifiable. Therefore, they should not be allowed. Moreover, beverages containing more than 1.2% by volume of alcohol shall not bear health claims or nutritional claims, other than those, which refer to a reduction in the alcohol or energy content. Within 18 months from the adoption of this Regulation, the Commission shall establish specific nutrient profiles which food or certain categories of foods must respect in order to bear nutrition or health claims. There are no financial implications for the Commission.

Nutrition and health claims made on foods

2003/0165(COD) - 08/12/2005 - Council position

The common position on nutrition and health claims on foods was adopted unanimously by the Council. The Council's common position conforms to the objectives of the Commission proposal while introducing a certain number of modifications among which:

Commercial brand names or trademarks: a new provision introduced by the Council allows brand-names or trademarks to be used without undergoing an authorisation procedure, provided that they are accompanied by a related nutrition or health claim in the labelling, presentation or advertising, which

complies with the provisions of this Regulation. In order to accommodate concerns regarding the application of the Regulation to existing trademarks and brand-names, a ten year transitional period has been introduced for brand-names or trademarks in use before the 1st of January 2005, after which they should comply with the Regulation.

Nutrient profiles: the Council maintained the concept of nutrient profiles as an important element to ensure the efficient application of the Regulation in relation to nutrition and health claims. The original proposal was considerably developed to focus more closely on the purpose and the scope of the nutrient profiles, and the procedure to be followed to elaborate them. Adequate safeguards were introduced to accommodate concerns regarding their scientific objectivity, the preservation of different dietary habits and national traditions, and the involvement of stakeholders in the process.

Health claims: the original Commission proposal envisaged the prohibition of several categories of health claims. The Council maintained the ban of some of these claims and, for others, stipulated that they could be used under certain conditions. The common position foresees that a list of certain health claims (which do not refer to disease reduction) will be adopted by the Commission within 3 years from the adoption of the Regulation, based on suggestions by the Member States. The scope of this Article has been widened and now includes claims referring to psychological and behavioural functions and slimming and weight control. Moreover, an authorisation procedure may be used for adding health claims to the list which are based on newly developed scientific data and/or include a request for the protection of proprietary data. As regards recommendations of or endorsements by national medical associations and health-related charities, a new Article is foreseen, according to which national legislation may continue to apply in compliance with the provisions of the Treaty until such time as Community rules are adopted.

Scope of nutrition claims: while the original proposal did not foresee the use of symbols/signposting as nutrition claims, the Council has examined this question in detail, being confronted with growing demands regarding the use of both positive and negative signposting on the nutritional status of a food (to be placed, for example, on supermarket shelves). As a result, the common position clarifies that the proposed Regulation only applies to beneficial claims, while claims referring to a nonbeneficial effect of the food will not be covered. In this respect, it is stated that Member States intending to introduce national schemes relating to non-beneficial claims should notify these schemes to the Commission and to Member States in accordance with Directive 98/34/EC. Furthermore, in order to take account of certain nutrition claims in pictorial, graphic or symbolic form used in several Member States, a transitional arrangement has been introduced in Article 27(4), which provides that national rules and criteria for the use of logos and symbols shall be authorised, if complying with the general principles of the Regulation.

Alcoholic beverages: the general prohibition in the use of claims in the case of alcoholic beverages, with the exception of claims that refer to a reduction in alcohol or in energy content, has been maintained. In addition, in the absence of specific Community rules on nutrition claims referring to the reduction or absence of alcohol or energy, it is clarified that national rules may apply in compliance with the Treaty. A new recital excludes food supplements in liquid form containing more that 1.2% of alcohol from the scope of these restrictions, as the alcohol quantity provided by the consumption as such foodstuffs is negligible. The Council, supported by the Commission, made several modifications to the annex taking notably account of recent scientific advances, and inserted a new recital stating that claims such as “lactose free” or “gluten free” should be dealt with in Directive 89/398/EEC.

In its common position, the Council included 35 of the 75 amendments adopted by the European Parliament at first reading. In particular, it includes the amendments concerning the following issues:

Scope and definitions: the amendments states that non-commercial communications are not covered in the Regulation; the Regulation shall apply without prejudice to Directive 89/398/EEC on foods intended for particular nutritional uses and Directives adopted on the basis thereof, Directive 80/777 /EEC on natural mineral waters, and Directive 98/83/EC on water intended for human consumption. Moreover, existing Community definitions are added, such as the definition of food supplements (Directive 2002/46/EC) and the definition of labelling (Directive 2000/13/EC), and the definition of “claim” is clarified.

General principles: amendments are introduced to clarify and complete the general principles for all claims; provide that claims shall not mask the overall nutritional status of a food; clarify the way the nutrient profiles will be set and used; state that the Authority should advise the Commission for the

setting of the nutrient profiles.

Nutrition claims: the common positionstates that the positive list of nutrition claims shall be revised in order to take account scientific and technological developments.

Health claims: the Council incorporates the amendmentproposing to allow all the claims that were prohibited in the article 11 of the original proposal, provided they are scientifically substantiated. Reference to general, non-specific benefit for the overall good health or health related well being may be made if accompanied by a specific health claim complying with the Regulation. Only the claims which suggest that health could be affected by not consuming the food, the claims which make reference to recommendations of individual doctors or non-recognised health professionals and other associations, and the claims referring to the rate or amount of weight loss remain prohibited.

Other amendments partially accepted by the Council refer to the participation of organisations representing the food industry and consumers to establish the initial list of function claims as proposed in one amendment was supported by the Commission. Another amendment asks for consultation of stakeholders and comitology for the adoption of guidelines for the implementation of the article 11 of the original proposal. An amendment is partially maintained in the common position that states that the applicant may make comments to the Commission on the opinion of the Authority within 30 days of its publication.

General and final provisions: the common position clarifies that the Register should be updated and available to the public and that transitional measures are needed in order to ensure a smooth transition for the economic operators. Different transition periods for various provisions of the Regulation are also provided in the common position.

Lastly, it should be noted that the Council rejected the amendments concerning the following issues :

the need to preserve the competitiveness of the food industry; on information campaigns on nutrition to be developed; on the involvement of a consumer panel to evaluate the claims; on the comparative claims between foods belonging to different food categories; on the submission of a food packaging sample to the Authority; on the substantial aid given to SMEs; on the Authority verification of the claims wording; on the time given to the Commission to examine the opinion of the Authority and on the time given to the Commission to release a report on the application of the Regulation.

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.

Nutrition and health claims made on foods

2003/0165(COD) - 12/07/2006 - Commission opinion on Parliament's position at 2nd reading

The Commission can accept all the amendments adopted by the European Parliament. The amendments adjusting the scope of the Regulation have been accepted. Those concerning the nutrient profiles that foods will have to meet in order to bear claims have also been adopted as well as those dealing with the authorisation procedures for health claims and extending the transition periods. These amendments are the result of a compromise agreement reached between the European Parliament, Council and Commission during the second reading. The amendments are in line with the Commission's objectives for the proposal and maintain the balance of interests achieved in the common position.

Nutrition and health claims made on foods

2003/0165(COD) - 02/06/2005

The Council reached unanimous political agreement on a draft Regulation on nutritional and health claims which may be used in the labelling, presentation and advertising of foods.

The European Parliament delivered its opinion on 26 May 2005. The text of the draft Regulation will be formally adopted by the Council as a common position after finalisation in the official languages, then forwarded to the European Parliament for its second reading.

Nutrition and health claims made on foods

2003/0165(COD) - 16/05/2006 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution drafted by Adriana **POLI BORTONE** (UEN, IT) and made several amendments to the common position. The compromise test was agreed by Parliament, Council and Commission. The resolution was adopted by 614 votes to 8 with 16 abstentions. The key issues were as follows:

Nutritional profiles: the European Commission's original 2003 proposal intended to ban all health claims on products which are rich in sugar, fat or salt. The compromise text has reintroduced the controversial concept of "nutritional profiles" which indicate appropriate ratios of salt, sugar and fat in any given product. Rejected on first reading, the amended text now authorises health claims on products with high sugar, fat or salt levels where a single nutrient exceeds the nutrient profile, and provided that a statement about the specific nutrient appears in close proximity to, on the same side and with the same prominence as the claim. In other words, cereals with high sugar content may continue to boast of being "high in vitamins and minerals" on condition that they are also clearly marked as being "high in sugar content".

It will be the Commission's duty to set salt, sugar and fat ratios for all new products sold on the EU market, which it will do based on information provided by the European Food Safety Authority (EFSA) and in close consultation with industry and consumer groups.

Alcohol: as far asnutrition claimsare concerned, only nutrition claims referring to low alcohol levels, or the reduction of the alcohol content, or the reduction of the energy content for beverages containing more than 1,2 % by volume of alcohol, shall be permitted.Drinks containing over 1.2% alcohol may not give as their only health claim the descriptions "reduction of energy content" or "low alcohol levels". In the absence of specific Community rules regarding nutrition claims referring to "low alcohol levels" or "the reduction or absence of alcohol" or "energy content", relevant national rules may apply.

Register: a register of health claims authorised so far is to be compiled, allowing manufacturers who wish to introduce a product with a particular health claim to consult the register in order to know the rules to be observed and not to have to go through the authorisation process itself. When a producer lodges an application, EFSA must give its opinion within 5 months. If the Authority demands further information from the applicant, a further one month is allowed. Where the Authority, following scientific assessment, issues an opinion in support of the inclusion of the claim in the Register, the Commission must take a decision on the application, taking into account the opinion of the Authority, any relevant provision of Community law and other legitimate factors relevant to the matter under consideration, after having consulted the Member States and within two months of receiving the opinion of the Authority.The scientific data and other information in the application may not be used for the benefit of a subsequent applicant for a period of five years (rather than seven years, as proposed by the Commission) from the date of authorisation

Trade marks: Parliament made a point of protecting existing trade marks which have been given fifteen years (rather than ten)to comply with the requirements of the new Regulation. Parliament also stated that *g*eneric descriptors (denominations) which have traditionally been used to indicate a particularity of a class of foods or beverages which could imply an effect on human health, such as "digestive" or "cough drops", will be exempted from the application of the Regulation.

SMEs: to help food business operators, in particular SMEs, in the preparation of the application for scientific assessment, the Commission, in close cooperation with the Authority, shall make available appropriate technical guidance and tools to assist them in the preparation and the presentation of the application for authorisation.

Children:products for children will be subject to the "authorisation" procedure.

Report: the Commission must submit a report on the Parliament and Council within six years of entry into force of the Regulation. The report must also include an evaluation of the impact of the Regulation on dietary choices and the potential impact on obesity and non-communicable diseases.

Further points of the compromise:fresh food such as fruit, vegetables and bread are excluded from the regulation; national rules will apply until (and if) Community standards are adopted. Finally, foods used in a Member State before 1 January 2006 which are not included in the annex can continue to be used for 3 years after the regulation enters into force.

Nutrition and health claims made on foods

2003/0165(COD) - 28/02/2005

The German delegation, supported by the Italian, French, Irish, Finnish and Portuguese delegations, drew the attention of the Council and the Commission to the fact that, in its opinion, current Community rules on food labelling did not go far enough in requiring information on the place of origin or provenance of pre-packaged foodstuffs; consumers' information needs were not being given due weight. In this context, the Commission was accordingly requested to submit a progress report on its efforts to improve information on provenance. These delegations argued that information on provenance should not be confined to processed food: it should also cover agricultural products, as with current beef labelling rules.

The Swedish delegation, welcoming the review of the marketing rules for foodstuffs and supporting the German delegation's request for encouragement of husbandry methods which are especially sensitive to animal welfare and the environment, said that it would look favourably on any initiative aiming at applying the same labelling rules to all foodstuffs.

The Spanish delegation emphasised the complex nature of food labelling and suggested that an evaluation of the true extent of consumer demand in this area was needed and that the outcome of the negotiations in progress within the Codex Alimentarius should be awaited before undertaking any review.

Commissioner Kyprianou said that since his area of responsibility covered horizontal provisions on product labelling, review of Community legislation in this field was at present under discussion by his department with a view to the Commission's adoption of new legislation by the end of 2006.

With this in mind, he stressed the need to analyse needs by consulting citizens. He reminded delegations of the principle that the labelling requirement was justified only where its absence would mislead the consumer.

Commissioner Fischer Boel, whose area of competence included the vertical provisions governing certain agricultural products, said that, while she recognised that labelling provided the consumer with better information and that a statement of origin was compatible with WTO rules, the matter required more detailed discussion; she would examine the matter as soon as possible.

Nutrition and health claims made on foods

2003/0165(COD) - 06/12/2004

Pending the European Parliament's opinion, the Council took note of a progress report on the state of play of the examination carried out until now on the Commission's proposal for a Regulation on nutrition and health claims made on foods.

The Council held an exchange of views aimed at giving guidance for future work, in particular focusing on :

- the role of regulatory and other Community measures in ensuring proper information that enables the consumer to make healthy food choices, in the context of the overall community strategy to fight public health threats such as obesity and overweight;

- the concept of "nutrient profiles" as an instrument to helping the consumer at making healthy food choices.

Nutrition and health claims made on foods

2003/0165(COD) - 26/05/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution based on the report drafted by Adriana POLI BORTONE (UEN, IT) and confirmed many of the amendments which were voted through in committee. (Please see the document dated 21/04/2005.) In particular, Parliament voted to delete Article 4 on nutrient profiles. The resolution was adopted by 458 votes in favour, 116 against and 15 abstentions. The amendment deleting the compulsory nutrient profiles was adopted by 303 votes in favour, 286 against and 10 abstentions. The following should be noted:

- a new recital states that “a varied, balanced diet is a prerequisite for good health. Products taken separately are only of relative importance compared to diet as a whole and diet is only one among many factors which influence the development of certain diseases in humans. Other factors such as age, genetic predisposition, the level of physical activity, use of tobacco and other drugs, environmental exposure and stress can also play a role in triggering human diseases. These factors must all be taken into account in the recommendations drawn up by the European Union in the area of health;

- a further recital states that the needs of the European food industry, and in particular those of SMEs, should be taken into account in order to ensure that innovation and competitiveness are not undermined;

- Parliament states that the Regulation will not apply to foods which are presented and sold loose, that is, without packaging, and shall not apply to fruit and vegetables (fresh produce);

- Parliament deleted a clause in the Commission’s text stating that the use of nutrition and health claims shall only be permitted if the average consumer can be expected to understand the beneficial effects as expressed in the claim;

- Parliament changed the procedure for authorisation to a notification procedure, where manufacturers or importers would only have to inform the authorities if they plan to start selling a product making nutritional claims. It would then be up to the authorities to object or issue a ban;

- notification will be made by normal post or, preferably, using modern communication techniques (including e-mail), by the manufacturer when the product is first placed on the market or, in the case of a product manufactured in a third country, by the importer.

- a new clause on intellectual property rights is added;- the regulation should be reviewed three years after its adoption, rather than six years as proposed by the Commission, and its impact on public health should also be evaluated;

- application of the Regulation should not occur until 18 months after its entry into force, rather than six;

- finally, Parliament added particular points to the draft regulation concerning small and medium size enterprises and children. Nutrition and health claims, unless scientifically substantiated, may not be exclusively directed at children.