

# JHCI

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## **NUTRITION CLAIMS AND FUNCTIONAL CLAIMS.**

A response to the Discussion Paper prepared by the Directorate General, Health and Consumer Protection (SANCO D4), European Commission.

### **Response by the Joint Health Claims Initiative (JHCI), United Kingdom.**

#### **BACKGROUND**

JHCI is a voluntary body working within the United Kingdom and consists of a democratic group which represents the concerned interests of the consumer movement; the food industry; the food law enforcement officers. Each of the three groups mentioned has equal representation on the controlling body. It is financed by contributions from member organisations (at this time, only the food industry).

JHCI was created from a desire to see common standards within the UK of all claims on food relating to the health of the consumer and in the absence of Community legislation. JHCI also wishes to ensure that future Community legislation is informed by JHCI activities.

A Code of Practice has been developed by JHCI and an Expert Committee of independent, respected scientists has been created to assess the scientific validity of claims.

The United Kingdom Government has been informed, at all stages, of JHCI's development and has been sympathetic to the approach and processes developed.

Further information (including a copy of the Code) is available at the JHCI Web site [www.jhci.org.uk](http://www.jhci.org.uk).

## **PRELIMINARIES:**

1. JHCI believes that a number of consumer studies indicate the desire of consumers to improve their diet as an aid to protecting and improving their health.
2. JHCI believes that food manufacturers should be entitled to communicate relevant health benefits of their foods effectively, taking appropriate marketing advantages from doing so, honestly and in a manner which is clear and unambiguous to consumers.
3. JHCI believes that the control of claims must be so arranged as to permit uniform, fair and consistent enforcement.
4. It is stated in the preamble to the JHCI Code that current Community legislation is too restrictive in the total prohibition of medicinal claims on food. JHCI believes that there exists factual information about food and food components, which is of value to consumers and which, can only be given on labels if the present prohibition is modified.
5. The consumer representatives within JHCI have been adamant and consistent in their view that they wish to see mandatory controls on all claims used in food labelling. However, they have been active in their support of JHCI in the absence of such controls.
6. JHCI believes that Community wide standards are desirable. It has participated actively in European-wide discussions and has liaised with similar voluntary organisations in other Member States. JHCI notes considerable agreement and consistency in principles underpinning Codes developed in other countries. However, it observes significantly different approaches and rationale behind what is being done in other countries.
7. JHCI believes that there are significant advantages to be gained in the European Community emulating what has been achieved in this area by other countries and, notably by Codex Alimentarius.

## **DISCUSSION**

(Numbers in parenthesis are the relevant paragraphs of the Discussion Paper).

8. JHCI believes that any controls on claims must provide for understanding of how consumers are likely to interpret labelling information, including wording, pictures, logos and endorsements, and ensure that the failure to impart adequate information and the partial provision of information does not mislead. (8)
9. We believe that any claim must be made and judged only as a part of the whole diet. This would require appropriate explanation adjacent to any claim, as necessary. Also, there must be no claims permitted where the food in question is not effective in achieving its claim as a part of such a diet. Furthermore, we consider that no claims should be permitted on foods, which, although justifying the claim made, are undesirable because of their nutritional imbalance. For this

reason, and because of the difficulties in applying a blanket definition of an “acceptable”, or “unacceptable” nutritional profile, we believe that claims should be considered on a case-by-case basis. (9)

10. The claim must only be used for a food that is capable of delivering the claimed effect. (10 & 11)

## DEFINITIONS

11. We would support the adoption of the definition of “claim” as used in Codex. However, this definition highlights one of JHCI’s **major reservations** about the Discussion Paper. We feel it is impractical and undesirable to consider nutrition claims and functional claims, in isolation. We believe that all claims made on food as described in the Codex definition should be addressed together. This would include “health claims” and “disease risk claims” which have been excluded from the Discussion Paper. JHCI accepts that such matters are complex but we consider that many of the considerations, controls and processes necessary are common to all claims and that much would be lost by separating claims into categories and dealing with them in isolation. We further believe that the work completed in a number of Member States and third countries to regulate claims offer the Commission ample opportunity to address all forms of claim. Paragraph 15 of the Discussion Paper encapsulates our argument. We see no justification for the weak rejection of previous arguments contained in the final sentence of Paragraph 15. (12 to 15).
12. JHCI believes that all claims should be controlled on all foods and that any Commission proposal should not, therefore, differentiate between some artificial sub-division of claims or between types of food.
13. JHCI believes that there is a need to acknowledge that all foods and / or food components impart a physiological effect to a greater or lesser degree, and that this should be accounted for in the definition of health claims (17).
14. We believe that cholesterol content claims, “x % fat free” claims and “without added / no added” claims are misleading to consumers and should not be allowed. (25-29)
15. The JHCI accepts the current Codex definition for nutrient-function claims, however we believe that the benefit of whole foods and dietary components, not just nutrients, must be recognised in a definition of health claims. (38, 39).

## CONDITIONS UNDER WHICH CLAIMS MAY BE MADE

16. In addition to the conditions set out in points 41 – 45, the JHCI believes that vulnerable sectors of the population, such as pregnant women, lactating mothers, children and the elderly may have specific nutritional requirements, and companies should take care to ensure that any claims do not mislead these sectors. Likewise, claims directed at specific sectors of the population should not be

presented in such a way as to mislead the general population. General health claims, which may apply differently to specific sectors of the population, must be explained. Furthermore, we believe that claims which could encourage high levels of consumption must not be made for any substances where there is evidence that high intakes of the food or substance could be harmful or unlikely to contribute to a healthy diet. (41-45).

17. The JHCI believes that “generally acceptable scientific data” should, wherever possible, be studies that have been peer reviewed and published in a reputable scientific journal. Moreover, evidence of the health benefit **must** be demonstrated clearly and convincingly in humans for every claim. JHCI also believes that the evidence must not only meet scientific standards of statistical and biological significance, but it must also be methodologically sound. (47).

#### TYPE OF EVALUATION AND AUTHORISATION SYSTEM FOR CLAIMS

18. Within the JHCI Code we have adopted independent, scientific evaluation of claims as being essential to consumer trust, and fair competition between producers. We believe that a system of pre-market vetting of all claims offers the consumer confidence and the producer, protection from unjustified challenge by enforcement authorities. Furthermore, we consider that European wide consistency would only be assured if such scientific assessment were provided by an independent scientific panel established by the Community. We reject the concept of setting down lists of approved claims as this would inhibit innovation and require constant updating within a time frame which the Community is unlikely to satisfy. (46 to 49)
19. We see considerable difficulty with any form of notification process because of the differences in consumption of food and dietary practise within Member States and the subtle differences that may take place in claims translated between one language and another. (49)

**JHCI**

July 2001.

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| <b>For further information, please contact the JHCI Secretariat, on 0044 (0) 1372 822 378</b> |
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