



18 July 2001

## **Food & Drink Federation (Ireland)**

### **Comments on the DG Sanco Discussion Paper on Nutritional and Functional Claims (Sanco/1341/2001)**

---

#### **I. Introduction**

The Irish Food Industry welcomes the opportunity to contribute to the debate on nutrition and functional claims, as outlined by the discussion paper published by the Commission. However, it is with great regret that this discussion paper does not deal with 'health claims' including disease risk reduction claims as these are frequently used across the industry but are dealt with differently in different member states, leading to unjustified barriers to trade. While health claims and disease risk reduction claims are potentially contentious, the difficulty of a lack of harmonisation across the EU will have to be addressed. The food industry would strongly support a change to this situation and believes that a discussion paper such as this would have provided an excellent forum for contribution to this discussion. It should have been possible to commence discussions using a model such as the FDA approach whereby 7 claims were initially authorised: -calcium and osteoporosis, sodium and hypertension, dietary fat and cancer, dietary saturated fat and cholesterol and risk of coronary heart disease, etc. Claims such as these could be agreed on the basis of 'scientifically agreed acceptable facts', which could then set a precedent for approving other claims in the future.

Given that the content of the Commission Discussion paper is unsatisfactorily limited, we will nonetheless, try to restrict comments to nutrition/ functional claims. We would recommend that the best way to move forward with this topic is to agree two things. Firstly, a list of nutrients about which claims can be made (this should initially be the list or a sub-set of the list of nutrients in the Annex to Directive 90/496/EC) and secondly, types of claims that would be permitted i.e. 'High in', 'Rich in' etc., for those nutrients. Bearing this in mind, we have commented on a few specific aspects of the discussion paper.



## **2. Specific Comments**

**3.** *“The food industry has responded to the increased interest of consumers in nutrition by providing nutrition labelling on many foods and highlighting the nutritional value of products through claims in their labelling, presentation, marketing and advertising. ....However, for the food industry, it was also an opportunity to use claims as a marketing tool.”*

While declaring that the food industry has responded to consumer demands on one hand, the statement above also implies on the other, that the industry has somehow ‘lied’ or supplied the consumer with untrue or inaccurate information. It must be remembered that the role of educating the consumer is not that of the industry. The Commission is responsible for educating the consumer, thereby enabling them to make suitable purchasing decisions. The consumers’ lack of understanding and the fault cannot and does not lie with the food industry, which make claims on their products which are justifiable by the very nature of the products. The fact that the beneficial effect of a product is used as an argument to sell the product is in such a context, perfectly legitimate and cannot be used against the industry.

**7.** The Irish food industry would strongly support the Commission statement that *“it may be necessary to ensure that claims made on specific foods do not state or imply that a varied and adequate diet cannot provide sufficient quantities of nutrients”*. Claims that are made must be accurate, true and honest, and must certainly never malign or fail to support the importance of a wide and varied diet.

**10 & 11.** The Irish food industry is of the opinion that in order to make a claim about a certain component of a foodstuff, it must be bio-available. While this is not appropriate for fibre, virtually all other claims would be meaningless if the nutrient is not bio-available in the product as consumed. Claims must be accurate, true and honest and must be reflective of the product as it is to be consumed by the consumer.

**13 & 18.** The legal definition of a ‘claim’ should be as broad as possible and ideally should cover both nutrition and functional claims. The Codex definition should make a good starting point. The agreement for the need for a definition of a claim reinforces the importance of the inclusion of ‘health claims’ (disease risk reduction claims) in the discussion. There is a continuum between the various types of claims and no clear distinction therefore it is not realistic/practical to consider nutrition and functional claims without also considering health claims.



The table in the annex of the discussion document makes reference to RNVs, RNIs, RDAs etc. These terms differ through out the Member States. If reference is to be made to these recommended amounts, then the figures produced by the EU Scientific Committee for Food should be those used and adopted by *all* Member States.

**20.** *'Without added ...'* While claims for the non-addition of a nutrient/ingredient remain forbidden if all products of the same category are requested to be produced without that addition by law, we would support the abolishment of all so called 'negative claims'. Statements such as 'Without added additives', for example, imply that additives could some how cause harm to consumers and are ultimately misleading.

**23.** Special consideration may also be needed for comparative claims. We would support the move to establish a list of 'reference products' to which comparisons must be made to typical values.

**24 & 25.** The Irish food industry supports the statement that all claims relating to dietary cholesterol merit particular attention. There is a strong belief that consumers do not understand the relationship between dietary and blood cholesterol, not to mind the relationship between cholesterol and saturated fat and that between blood cholesterol and heart disease. As dietary cholesterol is not a known risk for heart disease, we would support the argument for prohibiting the use of 'low cholesterol', 'reduced cholesterol', 'X% less cholesterol' and claims like these.

**26.** *'Low sodium'* and *'Very low sodium'* claims have been removed from the annex to Directive 89/398/EEC on foods intended for particular nutritional uses (see Directive 1999/41/EC) and the Irish food industry supports the move to regulate these claims in accordance with the general rules for other nutrients.

Like the cholesterol confusion, further confusion abounds with this subject. The public authorities should address the widespread confusion between sodium and salt content of all foods.

**28.** *"X% Fat free"*. The Irish food industry would support the move to abolish the use of x% fat free claims as they can be generally misleading and can be interpreted to mean that products are low in fat when in fact they may not be.



**48.** The use of claims has to be monitored. However, a 'pre-marketing approval' system for every claim being made is unnecessary and would stifle innovation and development. As mentioned before, the Irish food industry would welcome the compilation of a list of approved claims for each nutrient or substance. Once approved, the industry would be free to use these claims without prior approval. If a company wishes to use a claim out with this list, then approval would have to be sought. The European Food Authority would have to have a role in the maintenance of this list and in the approval process for the use of new claims.

### **Conclusion**

In summary, a large degree of agreement has yet to be reached before this 'claims' issue is resolved. It will be an ever-evolving subject with new claims being made as scientific developments occur. A system has to be put in place in order that the industry can maximize the information gathered by input into food technology and innovation. More importantly, the system must provide consumers with accurate information enabling them to make a valid purchasing choice.

*ENDS*  
*18<sup>TH</sup> July 2001*