



EUROPEAN COMMISSION

HEALTH AND FOOD SAFETY DIRECTORATE-GENERAL

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**SUMMARY REPORT OF THE
STANDING COMMITTEE ON PLANTS, ANIMALS, FOOD AND FEED
HELD IN BRUSSELS ON 10 FEBRUARY 2015
(Section General Food Law)**

CIRCABC Link: <https://circabc.europa.eu/w/browse/eb212ecb-da60-482c-8b1a-9e934ba01477>

Chairman : Mr Basil Mathioudakis

A.01 Request from Cyprus for an exchange of views on a number of issues related to the marketing of “foods for diabetics”.

On the request of Cyprus, the Committee discussed a series of issues related to the marketing of "foods for diabetics".

The Cypriot delegation noted that the use of statements like “*suitable for diabetics*” or qualifiers like “*diabetic...*” on marmalades and jams has been observed in Cyprus persistently over the last years. The Cypriot delegation asked the Committee's views on whether this kind of statements and marketing would be compatible with EU law and, in particular, with Directive 2009/39/EC on foodstuffs intended for particular nutritional uses (so-called 'dietetic foods'), with Regulation (EU) No 1169/2011 on the provision of food information to consumers and Regulation (EC) No 1924/2006 on nutrition and health claims.

The Commission opened the discussion by recalling the main points of its *Report on foods for persons suffering from carbohydrate metabolism disorders (diabetes)* (COM (2008) 392 final), requested by the legislation on dietetic foods. In particular, the Commission recalled that the scientific community, including the Scientific Committee for Food which was consulted on the matter, agree that the overall dietary advice to people with diabetes is that they should choose a diversified diet appropriate for them and should be able to do so from normal foods. This is why, as explained by the Scientific Committee for Food, there are no scientific grounds for specific compositional criteria for foods for people with diabetes. The Commission also recalled that on the basis of these scientific conclusions, the 2008 report concluded that no specific measure laying down compositional requirements for foods for diabetics should be adopted. For the same reason, Regulation (EU) No 609/2013, which revises the dietetic food framework and abolishes Directive 2009/39/EC and the concept of dietetic food from 20 July 2016, excludes foods for diabetics from its scope.

The Committee agreed that statements like "*suitable for diabetics*" should not be considered as health claims, but should be evaluated in line with the legal provisions which prohibit misleading food information (Article 7(1) of Regulation (EU) No 1169/2011) or unfair commercial practices (Directive 2005/29/EC). While it was noted by certain Member States that there is no outright ban of these statements and that their misleading nature should be evaluated on a case-by-case basis, there was general agreement that, taking into account the scientific consensus on the matter, it would be difficult to consider these statements as compatible with EU law.

While several Member States noted that use of this kind of statements is already prohibited in their territory, others noted that use is still tolerated until the repeal of Directive 2009/39/EC (20 July 2016). One Member State that still allows use of this kind of statements added that national rules exist on the matter, flagged its intention to repeal them, but asked whether this would be possible already before the repeal of Directive 2009/39/EC. The Commission confirmed that Member States were allowed to regulate the matter at national level in the absence of harmonised rules at EU level and in line with the rules of the Treaty; following the same reasoning, Member States can at any moment repeal such rules (some already did) and are encouraged to do so as early as possible.

The Commission concluded the discussion by noting that problems in the enforcement of the dietetic food legislation led to the repeal of the dietetic food concept and called on all Member States to ensure proper application of EU law.

A.02 Information and exchange of views of the Committee on the EFSA's Data Warehouse Access Rules.

EFSA presented the data warehouse that will allow analysis and distribution of the data collected by EFSA on zoonoses, antimicrobial resistance, foodborne outbreaks, pesticides residues, chemical contaminants, food consumption and chemical hazards.

The EFSA Scientific Data Warehouse Access rules were explained in detail.

The Committee was informed that these draft rules for access had already been discussed in other concerned sections of the Committee and this presentation was a final one before publication of the rules by EFSA.

The aim of the presentation was to ensure that all Member States had been properly informed, their comments made at other sections of the Committee had been taken into account and that there were no further requests for changes or objections on these rules.

After an exchange of views clarifying certain aspects of the access rules to the data warehouse, no objections or further requests for changes were raised.

B.01 Exchange of views and possible opinion of the Committee on a draft Commission Regulation refusing to authorise certain health claims made on foods, other than

those referring to the reduction of disease risk and to children's development and health.

This draft Commission Regulation was submitted to the Standing Committee in accordance with Article 18(5) of Regulation (EC) No 1924/2006. This draft measure aims at refusing to authorise the use of seven health claims foreseen in Article 13(5) of that Regulation. The applications were based on newly developed scientific evidence and for all of them the applicants requested the protection of proprietary data, as provided for in Article 13(5) of the same Regulation.

The Commission presented the draft and no comments were raised on any of the health claims included therein.

Vote taken: Favourable opinion.

B.02 Exchange of views and possible opinion of the Committee on a draft Commission Regulation refusing to authorise certain health claims made on foods and referring to the reduction of disease risk.

This draft Commission Regulation was submitted to the Standing Committee in accordance with Article 17(3) of Regulation (EC) No 1924/2006. It aims at refusing to authorise the use of two health claims referring to the reduction of disease risk, pursuant to Article 14(1)(a) of Regulation 1924/2006. The European Food Safety Authority (EFSA) gave an unfavourable opinion to these claims and accordingly they should not be authorised.

The Commission presented the draft and no comments were raised on any of the health claims included therein.

Vote taken: Favourable opinion.

B.03 Exchange of views and possible opinion of the Committee on a draft Commission Implementing Decision authorising an extension of use of DHA and EPA-rich oil from the micro-algae *Schizochytrium* sp. as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council.

The Commission representative presented the draft Implementing Decision to authorise an extension of use of DHA and EPA-rich oil from the micro-algae *Schizochytrium* sp. as a novel food ingredient. Some delegates expressed their view that the designation of the novel food should be revised. The Commission representative noted that the draft decision is in line with the previous authorisation on the same novel food.

Vote taken: Favourable opinion.

B.04 Exchange of views and possible opinion of the Committee on a draft Commission Implementing Decision amending Annex I to Commission Implementing Decision 2012/725/EU as regards the definition of bovine lactoferrin.

The Commission representative presented the draft Implementing Decision to amend Annex I to Commission Implementing Decision 2012/725/EU as regards the definition of bovine lactoferrin.

Vote taken: Favourable opinion.

B.05 Exchange of views and possible opinion of the Committee on a draft Commission Implementing Decision authorising the placing on the market of oil from the micro-algae *Schizochytrium* sp. as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council.

The Commission representative presented the draft Implementing Decision authorising the placing on the market of oil from the micro-algae *Schizochytrium* sp. (ATCC PTA-9695) as a novel food ingredient. One Member State was of the opinion that the maximum use level of DHA in processed cereal-based foods and baby foods for infants and young children including those used in accordance with Commission Directive 2006/125/EC proposed in Annex II is too high.

Vote taken: Favourable opinion.

B.06 Exchange of views and possible opinion of the Committee on a draft Commission Recommendation on a coordinated control plan with a view to establishing the prevalence of fraudulent practices in the marketing of certain foods.

The Commission presented the draft on a coordinated control plan to establish the prevalence of fraudulent practices related to certain foods. The Commission also presented the financial framework for co-financing of the plan.

Member States supported the plan. Some Member States still had technical comments that were clarified in the meeting or accommodated in a revised version.

The Commission Recommendation will be notified to Member States following the adoption.

Vote taken: Favourable opinion.

C.01 Exchange of views of the Committee on a draft Commission Regulation authorising a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health and amending Regulation (EU) No 432/2012.

As provided for in Article 18(4) of Regulation (EC) No 1924/2006 Member States were consulted on the modification of the authorisation of the health claim "*cocoa flavanols help maintain the elasticity of blood vessels, which contributes to normal blood flow*". The modification concerns the extension of the authorised conditions of

use of the above claim which requested by the applicant pursuant to Article 19 of Regulation (EC) No 1924/2006 and included a request for protection of proprietary data. The health claim on cocoa flavanols was initially authorised, pursuant to Article 13(5) of Regulation (EC) No 1924/2006, by Commission Regulation (EU) No 851/2013.

In its assessment, EFSA concluded that on the basis of the data submitted, a cause and effect relationship has been established between the consumption of cocoa flavanols in the HF cocoa extract (i.e. in capsules or tablets) and the claimed effect and indicated that its conclusions could not have been reached without considering one human intervention study claimed by the applicant as proprietary. Consequently, the use of the claim in question, under the extended conditions of use, should be restricted in favour of the applicant for a period of five years from the date of entry into force of this draft Regulation, under the conditions laid down in Article 21(1) of Regulation (EC) No 1924/2006.

One Member State made a comment as regards the absence of a warning on the potential risk of having a higher intake of cocoa flavanols obtained from cocoa extract (in capsules or tablets) compared to cocoa in foods (e.g. dark chocolate). The Commission explained that the conditions of use were reflecting EFSA's scientific opinion.

Further to this exchange of views, the Commission will continue with the authorisation of this claim.