



July 19, 2001

DG Sanco  
Rue Breydel 4  
1049  
Brussels  
BELGIUM

Dear Sir/Madam,

**Discussion Paper on Nutritional Claims and Functional Claims – Observations of Quaker Oats**

Quaker Oats submits that omission from the document of any consideration of the provision of information to consumers about the disease risk reduction properties of certain foods:

- makes it impossible to deal with functional claims in a comprehensive way;
- constitutes an unwarranted delay in addressing the present unsatisfactory situation where existing differences in national laws and practice prevent the operation of a single market;
- ignores repeated calls by the European Parliament for urgent action to legislate for the provision of disease risk reduction information on food packs;
- fails to respond to current thinking on the promotion of public health through greater information on healthy eating;
- ignores consumer demand across the EU (as evidenced by recent surveys) for clear information about the disease risk reduction properties of certain foods on the packaging;
- places European producers at a disadvantage as compared to those in third countries who may freely provide disease risk reduction information about their products on the Internet, while at the same time discriminating against those EU consumers who do not have access to the Internet.

The failure to deal with the provision of disease risk reduction information in the discussion document is inconsistent with the following facts:

- The Commission itself started work on a health claims regime and produced its first proposal in the early 90's. It also commissioned a detailed study on the topic that was submitted and published in the past year. Thus, the topic is certainly not unfamiliar or unresearched by the Commission and could certainly be re-examined now.
- A priority of the EU public health programme, namely,

*“Improving health information and knowledge: a comprehensive health information system will be put in place which will provide policy makers, health professionals and the general public with the key health data and information that they need.”*

Assuming this is still the policy, the Commission should act on disease risk reduction information on food packs as part of any comprehensive policy on consumer information.

- The Commission has authorised Community funding for promotional campaigns for certain foodstuffs in the context of which statements have been made (and continue to be made) that infringe the Commission's own interpretation of the principles contained in Article 2 of the Labelling Directive. For example, the Commission's sector of the Europa website contains a section highlighting the disease-reduction properties of olive oil which is inconsistent with its proposed position.
- The Council of Europe has recently adopted guidelines for functional foods including guidance on how to deal with the provision of disease risk reduction information. These discussions involved most of the member states, some applicant states, and the Commission (as observers). There is ample material already on the table for the Commission to be able to move the process forward.

At recent public meetings on the issue of “claims” related to food products, both industry and consumers' representatives have been unanimous in calling for inclusion of disease risk reduction information in the debate about functional and “health” claims.

At these same meetings Commission representatives have given the following reasons for not addressing disease risk reduction statements now which we don't believe stand up to scrutiny:

- “Member States currently have different approaches to the matter, do not agree on how to deal with the issue and, therefore, finding consensus could be a difficult process.”

*We submit that if the Commission was to use these criteria in general then there would be little EU legislation. It is an important role of the Commission to give a lead and facilitate the finding of consensus, knowing that, in any event, the legislative system in the EU for such matters is based on qualified majority voting not requiring unanimous agreement on every point. It is worth noting that Member States were able to agree the principles of claims with respect to functional foods in the Council of Europe, which should give us some confidence that this is achievable.*
- “If the Labelling Directive were altered to provide more appropriate regulation of disease risk reduction information on food packs then this would necessitate a change in the medicinal products legislation.”

*If this is the case, then so be it. The need for change in one area of law should not be compromised because it may require adjustment of other rules. This is no argument at all unless the aim is to reserve provision of any health related information only to the pharmaceutical sector. Clearly, the Misleading Advertising Directive may need adaptation also but DG Sanco appears to be addressing this task with enthusiasm.*
- “The Commission’s *White Paper on Food Safety* never said it would deal with disease risk reduction or health claims.” (1)

*However, it did say it would address functional foods and deal with the labelling issues there. The reason for dealing with functional foods is, after all, to be able to communicate their potential benefits to consumers. Nutrition experts (e.g. in the Council of Europe) have recommended that this should cover disease risk reduction labelling.*
- “The Commission’s *White Paper on Food Safety* never said it would deal with disease risk reduction or health claims.” (2)

*But the Commissioner accepted the section of the European Parliament’s Resolution on the White Paper that explicitly repeated its earlier calls for action on disease risk reduction labelling in the context of an overhaul of the Labelling Directive.*
- “There are many examples of abusive health claims which mislead or deceive the consumer.”

*In fact, we believe there are very few examples compared to the millions of products on the market that provide clear, fair information to consumers. The few exceptions prove the rule. But if the small number of exceptions is growing, then this is no argument for inaction by the Commission. Rather, the current legislation which is based on the situation in the mid-70s should be adapted to provide a proper structure for guaranteeing the appropriateness of labelling in tune with the increased scientific knowledge available today.*

The Commission has stressed publicly that it will take full account of the comments it receives. As it seems evident that a very large proportion of respondents will call for action on health claims and disease risk reduction labelling, Quaker Oats calls on the Commission to initiate procedures for the adoption of a regime to regulate disease reduction claims as a matter of urgency in tandem with functional claims. We would want to see adequate safeguards to prevent abuse, including rigorous scientific substantiation of claims.

I hope you find these comments constructive and helpful.

Yours faithfully

**George Sewell**

George Sewell  
President – Cereals, Europe