

Commission Discussion paper on Nutritional and Functional Claims

(SANCO/1341/2001)

*Comments issued by: SUIKERSTICHTING
NEDERLAND
Acting on behalf of the sugar industry in the
Netherlands.*

The sugar industry in the Netherlands, represented by Suikerstichting Nederland, does fully support the general comments on the above document issued by V.A.I., the Dutch Food and Drink Federation. Also the general tendency of the comments in preparation with the C.I.A.A. is being welcomed. However given the special interests of the sugar industry as well as for some reasons of mere principle we would like to add some more detailed and specific comments.

*The numbers between brackets refer to the points
given in the discussion paper.*

Classification of claims (15).

A part of the discussion paper is devoted to the discussion about classification of claims into different categories as health-related claims, health claims and functional claims. Such deliberations are held with a variety of theoretical and political arguments. From the title of the paper one may conclude that "health related" claims are on purpose being held outside the scope of the current discussion. We would make a strong plea not to make such classification but to take the consumer's perception as a guidance..

It is absolutely without any doubt that in general the consumer's reaction on any claim and the understanding of the relevance with respect to their personal total diet is not based on expert arguments or deliberations. But at the end the consumer's real perception of the claim and the actions followed thereafter are the only facts that count. There is evidence available from consumer research clearly showing the reactions of the consumer on "health related images and messages". Therefore the conditions under which claims can be made should apply to all types of claims irrespective the classification or definition.

In this respect it is also important not only to take into account what is literally being stated in a claim, but also what is implied or suggested. Some definitions of claims do narrow the definition to what "is meant to imply" or "meant to suggest". Given the arguments above such restrictions cannot be justified.

The fact that the information provided on foods is not always well understood by consumers might trigger the question on the status of the consumer education, but does not provide an excuse for the industry to use claims that due to a lack of understanding can be misleading for the consumer. Consumer information in general will only be effective when the information is both available and understood. (15)

The intention and use of claims (3)

Although the intention of using claims might in theory have been "providing the consumer with relevant information", claims on pre-packaged food and drinks turn out to be in practice smart acceptable marketing tools. Consequently the use of such claims should only be allowed if the

messages behind that claim can be substantiated, if the claim is not misleading and the wordings do not discriminate any other product or ingredient being legally sold in the market.

Nutrients versus ingredients

The inconsistent use of the term 'nutrition claim' throughout the discussion paper (sometimes relating to only nutrients and sometimes to ingredients or "other substances") will lead to confusion. It is a fact that the name of an ingredient is quite often being used to describe or suggest potential effects of (a group of) nutrients. Such situations tend to be incorrect and discriminatory. Although outside the scope of the discussion paper: the actual panel used for nutrition labelling is also an incorrect mixture of ingredients, nutrients and active substances.

Nutrition declaration (16).

For a number of specific claims on the label there is a legal obligation for nutrition labelling or other additional information. This does however in our view not imply that there is no need for the scientific background of that claim to be fully substantiated. A nutrition panel does not give the information needed for the consumer to be informed about the effect on its health he or she perceives from the message given.

Functional claims (46).

Not only functional claims should be based on general accepted scientific evidence. In every case where a promotional effect related to personal health is being claimed or the message is been perceived as such by the consumer, the scientific evidence behind should be substantiated.

Arguing that claims related to a "minor effect" do not need to be scientifically substantiated at the same level of evidence as some "new" and more "spectacular" functional claims cannot be held. A long lasting and frequent "minor" misunderstanding at consumer level may sometimes have more detremendeous effect than one so called "big mistake".

Also for certain so-called "generic" claims there is no justification for a lower level of scientific substantiation. Of course in practice the evidence asked for will be easier to provide in such cases.

"Generally accepted" effects of content-claims (Annex).

Regarding to the application of specific criteria for 'content' claims as mentioned in the table, one should consider the fact that also such "generally accepted" facts and conditions are subject to change given the on-going development in nutrition and health science.

*Baarn, The Netherlands
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