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Association of European Consumers
socially and environmentally aware
Association Européenne des Consommateurs
socialement et environnementalement responsables

Member organisations
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Opinion Paper
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AEC Opinion on
"Discussion Paper on Nutrition Claims and
Functional Claims"
SANCO/1341/2001

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Association of European Consumers AEC welcomes the Discussion Paper and has the following comments and proposals:

We reject the term "Functional Food"

Claims regarding certain foods are acceptable but not general terms such as "Functional Foods". We think it would be great if olive oil or even olives could be labelled as healthy. However, the claim must be based on scientific studies in peer-review journals or books so that we can confirm the data for ourselves. The claim should never be based on data hidden by corporations under the veil of confidentiality or trade secrets. If the conditions of openness and transparency are met, we cannot see any problem with allowing some claims that tell consumers about healthy effects of certain foods.

We clearly understand that the industry desperately needs arguments such as "Functional Foods" for novel and patentable products to gain market shares, but we reject the term because it is not in the consumer's best interest. As all foods have some function, the term "Functional Food" is in itself a claim that attempts to qualify that this particular group of foods is special and different from other healthy foods. If such foods are to have a future in Europe, they will need to comply with the demands of the health-conscious consumer for really healthy food, without the additives and with labelling that shows the real origin of the ingredients used. We feel that if a company is serious about launching products for consumer health, it should use organic ingredients.

Disputes

Outrageous claims we have seen in other countries, such as the U.S., include improving blood flow, providing energy, reducing stress, and boosting the immune system. In Europe, Novartis claimed that their "Aviva Functional Foods" sold in the U.K. offered health benefits to consumers including benefits for bones, heart and digestion. Products in the range included cereal bars, biscuits, a hot chocolate drink and a juice drink. The products were recalled from the shelves after consumers rejected them when it was revealed that they contained genetically manipulated soy as well as the controversial artificial sweetener aspartame. The American Soybean Association has also used a number of claims about soy and phytoestrogens. On October 20, 1999 (the same day the U.S. FDA allowed health claims on soy) there was a wave of advertising sponsored by Dupont in major newspapers as well as a website with claims and updates also sponsored by Dupont but under the name <http://www.protein.com> and a number of other fantasy names like "Suprosoy" and "Supro Plus" as well as "Supro Lifestyle".

We have closely followed the attempts by Oy Karl Fazer to get EU approval for plant sterol enriched chewing gum, snacks and bakery products. Margarines are now the focus of intense debate and the entire concept of these fats are challenged. It is not clear to us how the margarine industry will respond to the new awareness about margarine related health risks, but we would not be surprised if they put a lot of effort into promoting "Functional Foods" instead. If certain groups of consumers, for example diabetics, need to reduce the level of cholesterol, they also need better information about diet in general, and not be the target of advertising for goods that can have an adverse effect on their health for other reasons. The labelling of such foods would need to give information about the levels of plant sterols present in a product. The consumer would need a guarantee that the content is correct and

does not deviate from the label. However, even if the claim was true, the benefit would then have to be assessed individually for the person with special dietary needs. This probably requires professional assistance from someone with medical training, and not only a label. In short, advertising legislation must be very strict in this field. We especially agree with Your conclusion in Points 24 and 25 that all claims relating to dietary cholesterol merit particular attention and that such claims should not be made. We also strongly agree with Point 28 that "X% fat free" etc is misleading to consumers.

Other product claims

We are also concerned that the trend to label foods with claims is not an isolated phenomena. Some corporations may use a number of claims on other products, from shampoos and toothpaste to pain killers and obesity drugs. One current example is sun screen products that are sold in supermarkets in the EU but as over the counter drugs in the U.S. For many years the producers have been allowed to make claims about the sun blocking effect without telling consumers about side effects or risks. Consumer organisations on both sides of the Atlantic are worried that confusion may be unavoidable if different countries have different rules for health claims on foods. We discuss these issues in the Transatlantic Consumer Dialogue as well and think this opportunity to exchange ideas and experiences will benefit all consumers. We also propose that there is a need for public awareness campaigns and specifically as an important but neglected educational tool, for example regarding the risks of smoking, alcohol or certain unhealthy diets.

For consumers and shoppers who are exposed to advertising every day the number of claims for a large variety of products can be extremely bewildering and irritating. Also, as advertising for pharmaceutical drugs become more common, there will be an urgent need to examine the validity of such claims as well. We regard it as important that it must be obvious if a claim is for a food or for a drug or any other product, and that the types of claims allowed for foods should not be misleading to the consumer. We urge the Commission to make sure that the specific terms used for health claims related to food will not be allowed for advertising of other products.

Corporate sponsored nutritional education and research

In Europe, we do not readily accept the links between corporations and for example the educational system that may be common in other parts of the World. We are very concerned that health claims will be promoted not only directly on food products, but also through projects sponsored by the same producers that want consumers to buy their products. We urge the Commission to look into this matter and find ways to ensure that European children are not exposed to untrue, exaggerated and biased corporate material in their education. One Japanese example that illustrates this trend is the transnational corporation Ajinomoto, that seeks to promote programs that particularly show the "rich and abiding link" between culture and diet. Since 1979, the company has sponsored "culture and diet" programs in Japan, and in 1989 it established the Ajinomoto Foundation for Dietary Culture. Through this foundation, they have broadened their involvement in activities that promote what they call dietary culture. Since 1975, Ajinomoto has also helped support a national Japanese high school essay contest on culture- and diet-related themes sponsored by the National Federation of High School Home Economics Clubs.

Ajinomoto, Novartis, Monsanto and many other transnational food companies are also members of ILSI (International Life Science Institute) that promotes "Functional Foods". According to Center for Science in the Public Interest, ILSI members "represent the world's leading manufacturers of food and food ingredients, chemicals, pharmaceuticals, and other consumer products." Other corporate front groups that we know of include American Council on Science and Health (ACSH) that is funded by Monsanto, National Soft Drink Association, NutraSweet and Coca Cola. Some 40 percent of ACSH's \$1.5 million annual budget is supplied directly by industry, including a long list of food, drug and chemical companies, according to the Center for Media and Democracy. Unilever is another example of a transnational corporation with involvement in the Institute of Food Research "Neodiet project" in Norwich, UK which is funded by the European Union, that promotes genetic engineering and especially "functional genomics" and "nutritional genomics".

Conclusions

We fully agree that the use of claims has to be regulated and demand that all claims have to be scientifically approved, true and not misleading consumers, even if those are not always highly educated on these matters. It must be taken in consideration not only the scientific correctness in the communication but also how it in practise is understood by average consumers.

We are concerned about how the claims are communicated. It is important that claims will not have such a dominant place on a product that consumers get used to just look for claims and forget what food normally contains and the scope of the product. A well balanced diet should be the first to look for and not get misled by the existence only of claims.

We do not think that we are ready to choose which way claims shall be communicated, but the proposed solutions in p. 48-50 are a good base for further discussions and negotiations. The development of Codex rules have to be followed closely and also taking active part in these discussions.

We suggest a deeper study of how claims have been misused in order to create rules that better can eliminate the most common and worst claims. The question of cholesterol is good example how claims can be misused badly.

In a general view we appreciate that consumers interests now is more and more involved in both discussions and decisions and that it no longer is an exclusive privilege for producers to determine what they want to communicate to consumers, with the utmost scope to easier sell just their product.

We look forward to further discussions, seminars or hearings on this important matter.

Sincerely,

Bengt Ingerstam
President