



## **Expert Group on food intended for infants and young children, food for special medical purposes and total diet replacement for weight control**

### **Summary report**

Brussels, 22 February 2016

Chair: Ms Dora Szentpaly-Kleis

#### **1. Exchange of views on aspects related to the application of Regulation (EU) No 609/2013 on food intended for infants and young children, food for special medical purposes and total diet replacement for weight control (FSG Regulation)<sup>1</sup>**

The Commission welcomed the experts by recalling the context of the meeting: the FSG Regulation will enter into application on 20 July 2016 and will repeal the framework of Directive 2009/39/EC on foodstuffs intended for particular nutritional uses<sup>2</sup> (hereinafter PARNUTs). The objective of the meeting is to discuss a number of questions that the Commission received from national competent authorities and other interested parties related to the imminent entry into application of the FSG Regulation.

An account of the most relevant discussions during the Expert Group meeting is provided under sections A and B.

##### **A. Adoption of measures at national level**

It was asked whether and under what conditions rules can be adopted at national level for foods previously classified as PARNUTs and not covered by the FSG Regulation.

The Commission explained that Member States have the right to adopt rules at national level with respect to not harmonised aspects of EU law. However, such measures need to be proportionate, justified and compatible with the rules of Treaty on the Functioning of the European Union. National measures must be notified to the Commission which assesses them on a case-by-case basis.

In this context, the Commission recalled that the European Parliament and the Council agreed in 2013, when the FSG Regulation was adopted, that foods not covered by the FSG Regulation could be adequately governed by the horizontal rules of EU food law. This point should be kept in mind by Member States in their reflection on the possible adoption of rules.

##### **B. Applicable legislation for PARNUTs and food for specific groups after 20 July 2016**

Different questions were asked on what rules would apply to foods currently classified as PARNUTs after 20 July 2016. Questions covered both foods under the scope of the FSG Regulation and foods out of that scope. As regards foods under the scope of the FSG Regulation, discussions in the Expert Group also covered the question whether food business

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<sup>1</sup> OJ L 181, 29.6.2013, p. 35.

<sup>2</sup> OJ L 124, 20.5.2009, p.21.

operators are allowed to anticipate compliance with the relevant provisions of the new delegated Regulations (adopted under the framework of the FSG Regulation) before their date of entry into application.

The Commission referred to Articles 20 and 21 of the FSG Regulation which provide detailed information on the matter, and recalled that, as laid down in Article 17 of Regulation (EC) No 178/2002<sup>3</sup>, it is for national competent authorities to enforce the requirements of EU food law. With respect to the specific question on whether food business operators can anticipate compliance with the new delegated Regulations, the Commission noted that Articles 20 and 21 of the FSG Regulation do not contain any explicit provision that would exclude this possibility and that the objective and the spirit of those Articles are to ensure a smooth transition for food business operators adapting to the changes in the applicable rules. No diverging view was raised by Member States' experts.

The Commission also invited Member States' experts to consult Q&A documents on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers, which provide useful information on how that Regulation applies to PARNUTs and foods for specific groups.

## **2. Commission updates on the implementation of the FSG Regulation**

Following the request of Member States' experts, the Commission provided updates on a series of aspects related to the implementation of the FSG Regulation.

The Commission explained that the two reports on young-child formula and on food intended for sportspeople were in the process of being finalised and that the Commission is ready to discuss with Member States' experts the implications of the reports' conclusions after their publication.

With respect to the delegated act on processed cereal-based food and baby food, the Commission informed Member States' experts that EFSA will soon be requested to provide scientific advice in order to revise the compositional and information requirements for these products.

## **3. AOB**

Two Member States' experts called on the Commission to accelerate work to lay down harmonised rules on the use of flavourings in foods for infants and young children. One expert urged the Commission to harmonise rules on "lactose-free". Two experts asked the Commission to resume work on the guidance on tolerances for nutrient values declared on a label<sup>4</sup> to also include foods for specific groups.

The Commission took note of the requests but explained that work must be prioritised taking into account the urgency of the different actions and the Commission's limited resources. It

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<sup>3</sup> OJ L 31, 1.2.2002, p. 1.

<sup>4</sup> [http://ec.europa.eu/food/safety/docs/labelling\\_nutrition-vitamins\\_minerals-guidance\\_tolerances\\_1212\\_en.pdf](http://ec.europa.eu/food/safety/docs/labelling_nutrition-vitamins_minerals-guidance_tolerances_1212_en.pdf)

asked Member States' experts to confirm in writing what future work they consider as a priority.

A discussion took place on the on-going work of WHO to prepare a "Guidance on ending the inappropriate promotion of foods for infants and young children" and its relation with the on-going revision that CODEX Alimentarius is carrying out of the standard on follow-up formula (STAN 156-1987).

A discussion also took place on the presence of chlorate in foods for infants and young children. The Commission explained that the issue is being followed, together with the colleagues responsible for pesticides and hygiene. Member States' experts were encouraged to similarly liaise with colleagues from the other relevant departments at national level.