



# ASSOCIATE PARLIAMENTARY FOOD & HEALTH FORUM



## FHF meeting on nutrition and health claims on food labelling - minutes

5pm, Tuesday 28 November 2006

Grimmond Room, Portcullis House, London, SW1

### Lord Rea – introduction

Lord Rea welcomed members to the meeting and expressed regret that many Parliamentary members of the Forum were unable to attend the meeting because they were engaged in debates in Parliament.

Lord Rea noted that the new European regulation on health claims on food, which had caused considerable controversy, was very important for the food industry and indeed all of us. He then introduced the first guest speaker, Noel Griffin of the Food Standards Agency,

Noel Griffin works in the Nutrition Division of the Food Standards Agency. He was the key negotiator for the UK at official level in the European Council and is now heading the team faced with implementing the health claims regulation.

### Noel Griffin, Food Standards Agency

The European Parliament agreed on a text of the Regulation in May of this year, and after translation and legal checks, it was adopted in Council on 12 October. It will be published, probably before the end of the year and enter into force 20 days later. It will apply – that is some claims will begin to be judged against the conditions it lays down - 6 months after publication.

The FSA welcomes this Regulation. We know consumers want to make more informed, healthy food choices and food labelling is a crucial element in this.

The FSA has prioritised consumer choice and dietary health as the key objective in our policy on food labelling. Our strategy includes providing healthier choices, for example by encouraging reformulation of food to reduce salt levels; by making healthier choices easier, for example by supporting the signposting of healthier choices; and finally by removing barriers to healthy choice, for example in our work with DfES on school lunches.

Consumers want help to make healthier choices; but all too often claims have left consumers confused and misled – or in the words of a report by the National Consumer Council: “Bombarded, Baffled and Bamboozled”. We have legislation that makes it an offence to describe a product falsely or to provide misleading information regarding its nature, substance or quality; but this has been difficult to enforce and consumers have suffered from some unsubstantiated and misleading claims.

The new Regulation will change this. It has 2 guiding principles: to harmonise legislation and establish a level playing field for the use of nutrition and health claims across all 25 member states; and to strengthen consumer protection.

Chairman: Lord Rea  
Vice-Chairmen: Dr Ian Gibson MP  
& Baroness Miller of Chilthorne Damer  
Secretary: The Earl Baldwin of Bewdley  
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The Regulation seeks to ensure that voluntary claims about health benefits are substantiated by science – that the claimed effect is beneficial, and that the product can deliver this effect and not mislead consumers in the process. For example, the food should contain enough of the ingredient to give the benefit claimed and it should be in a form available to the body.

Nutrition claims are about the energy or nutrient content of a food, such as “low calorie”, “high in iron”, “low fat”, or “reduced salt”. These claims are already collected and listed in the Annex to the Regulation, along with conditions for use of the claim.

Health claims fall into two broad categories: function claims – or Article 13 claims – are about the role of a nutrient or other substance in the growth, development or normal function of the body. Article 13 also includes psychological or behavioural claims and weight control claims. An example might be “omega 3 long chain poly unsaturated fatty acids (lcpufa) maintain a healthy heart”. These claims must be based on generally accepted scientific evidence and references to such science will suffice to substantiate the claim.

The second category of health claims is Article 14 claims, which concern the reduction of risk of disease, such as “omega 3 lcpufa can reduce the risk of a heart attack”. Until now reduction of disease risk claims have been illegal, so this is a significant development. These claims must also be based on generally accepted scientific evidence – but because of their nature and how the food - rather than a medicinal product - can deliver the effect, this requires careful explanation and a fuller dossier is required.

In order to provide the best possible protection for children, claims about children’s health and development will also be subject to the more stringent scrutiny required by Article 14 before they are authorised.

Once the European Food Safety Authority (EFSA) has approved claims based on sound science they will be added to a Community list. EFSA is also helping the European Commission to establish nutrient profiles, so that a food which is high in fat, sugar and salt is not made to look healthier by a claim – for example, that it is a good source of calcium.

Member States are charged to collect Article 13 health claims and to submit them to the European Commission and EFSA for validation within three years. In the UK, the FSA is responsible for this process and will check that references are made to reputable scientific sources. Some Member States have very few health claims on the market, others for example, the UK, have many claims. Existing health claims can continue for the next three years so long as they are consistent with national regulations.

In his closing remarks, Noel told members that nutrient profiles were the one issue that nearly caused defeat of the regulation in the European Parliament. The Commission wants to ensure that it is clear to consumers that some foods – those which are high in fat, salt or sugar – should only be consumed in moderation. So, the Commission with the help of EFSA will establish nutrient profiles foods must meet. Failure on one nutrient will prohibit health claims, but if the food fails on only one criterion a nutrient claim may be allowed provided there is a statement next to the claim about the failed nutrient, “high in fat / salt / sugar”.

Lord Rea thanked Noel for his presentation and introduced Christian Cull, the Marketing Director of Waitrose.

### **Christian Cull, Marketing Manager, Waitrose**

Christian Cull (CC) said that Waitrose welcomes the new Regulation because it did not want its customers to be “bamboozled and baffled” by health claims on food. Waitrose’s approach to all its marketing, including food labelling, was to seek to make it as transparent as possible.

Customers are seeking more information from Waitrose about its food products and they assume that health claims are based on expertise.

Waitrose tries to help customers by working towards a consistent approach to labelling. Waitrose fully supports the FSA traffic light labelling scheme and it has not found that customers are deterred from buying products with “red lights”, such as lasagne.

Waitrose supports putting information about fat, sugar and salt content, as well as calorific counts, on the front of packs. It believes McCain, one of the first companies to include calories on the front of packs, may be leading the way for the food manufacturing industry.

Waitrose fully supports ensuring that health claims should be based on sound science, but regards it as essential to remember that consumers are not experts and labelling needs to be clear and simple. Customers slow down when they are shopping for food, but they want to be able to identify products quickly, so more detailed information – such as Guideline Daily Amounts (GDAs) and full lists of ingredients – should go on the back labels. Waitrose’s research has found that customers do not like food content expressed in terms of amounts pre 100g – they want to know how much is in the pack or portion.

Waitrose uses symbols to guide customers, such as the 5-a-Day symbol, and symbols to indicate Omega-3 or that a product is low in fat or low in salt, or contains no hydrogenated fat. It is also using “block merchandising” in shops to draw attention to healthy choices, its healthy food range and to draw attention to so-called “superfoods”, such as blueberries.

Waitrose plans to increase the number of tastings taking place in its shops so that it can provide more information to customers about its products and draw their attention to products that are locally produced or in season.

Waitrose has trialled a number of systems for labelling its products and found that the traffic light system advocated by the FSA was clearly the best in terms of being quickly understood by customers. Waitrose will be using the traffic light system on all its ready meals by the end of the year (with GDAs on the back label) and on a wide range of other products by March 2007.

Waitrose sees the clear sense and logic behind the new European regulation and fully supports it.

**Lord Rea** thanked Christian for his presentation and introduced Michelle Smyth of Which?

Michelle, is well known to many FHF members as the Principal Public Affairs Officer of Which? She has worked on a number of high profile campaigns for the organisation, including those on GM foods, honest labelling and the marketing of foods to children.

#### **Michelle Smyth, Principal Public Affairs Officer, Which?**

Michelle explained that she wanted to discuss the impact on consumers of the new European Regulation on health claims by drawing attention to some examples where previous health claims on food had been found wanting (paper copies of slides were handed to all members attending the meeting and will be circulated with these minutes).

Michelle agreed with the other speakers and Lord Rea that health claims on food are a very important issue for consumers. Indeed Which? research shows that it has been important to consumers for the last fifteen years, so progress now is very welcome. Michelle also agreed with Christian that customers are looking for clear, quick, easy to use information.

Which? regards it as essential that consumers can make informed choices and want to be sure that so-called “healthy choice” ranges are indeed healthy, not least because they often

have to pay a premium for these products. Customers want to know that the claims are accurate and that healthy choices represent good value. But without a pre market mandatory checking system, consumers currently have no way of knowing whether a claim has the evidence to support it. Customers would also like to know how they can identify whether health claims have been independently verified.

Until the new European Regulation comes into effect, recourse to the Advertising Standards Authority (ASA) remains the main means of voicing concern about the accuracy of health claims in the UK. Michelle then referred to her slides.

Yakult had claimed that “during your period, you are more prone to an upset tummy. Did you know that friendly bacteria could help?” The ASA had ruled in May 2005 that this claim was not justified.

St.Ivel claimed that its Advance omega-3 “clever milk” “may enhance learning and concentration” and “can also help to maintain a healthy heart”. The ASA has ruled that there is insufficient evidence at the present time to justify the first claim about learning and concentration.

In the case of McVities “Go Ahead” cakes, the ASA had ruled against their claim that the cakes were “the healthier choice” because, although they were relatively low fat (2.3g per cake), the claim focussed on the fat content to the exclusion of the sugar content. The cakes had as much sugar as other cakes, so the ASA ruled the health claim was unjustified.

The claim by Masterfoods that its “Milky Way” chocolate spread was rich in “calcium, magnesium and vitamins” was of concern as it is on a product which is high in fat and more than 50% sugar. Without stricter controls over foods presented as healthy, consumers can be lead to believe that products carrying claims are healthier than may actually be the case.

Which? research shows that 99% of people want claims to be independently checked for them and 85% believe the food industry should not be able to claim a product is a “healthy” choice if it is high in fat, sugar or salt.

Which? believes that consumers will benefit significantly as a result of the new European Regulation on health claims because there will be clear and binding definitions of low fat, low sugar etc; foods high in more than one nutrient (fat, sugar or salt) will not be able to be labelled with a nutrition claim; foods high in one nutrient (fat, sugar or salt) will have to make this clear on the label; disease risk reduction claims will be allowed, but they will have to go through the full authorisation procedure; and existing health claims will be established on an EU wide approved list. As a result of these measures, Which? believes the Regulation will help consumers make healthy choices and it welcomes the Regulation, which it believes is long overdue.

## Questions

**Lord Baldwin of Bewdley** asked what advance the new Regulation made in comparison with, say, the medicinal products licence. **NG** said the Regulation brought forward new definitions and procedures which will establish much more rigorous health claims in relation to food products, not least because the claims had to be substantiated by reference to dossiers of scientific evidence. When the authorities consider a health claim it will be “weighed” taking into account the totality of scientific evidence available and not just evidence which supports the health claim.

**NG** made the point that the European Food Standards Agency (EFSA) has not yet produced guidance on the new Regulation. He expects this guidance to be published in ~ April 2007 and there will then be greater clarify as to how claims can be substantiated.

**Lord Rea** asked what part the UK FSA is playing in the process and **NG** explained that the FSA is responsible for collating the claims made in the UK and submitting them to EFSA. It is also checking the claims to ensure that any references made are references to reputable sources.

**Dr Susan Jebb, MRC Human Nutrition Research** asked how the Regulation would affect labels claiming a product was “wholegrain” and help consumers distinguish between products bearing this label that were 10% or 100% wholegrain. **NG** said the authorities would rely on the weight of scientific evidence to determine whether it was a fair claim.

**NG** was also asked what the impact of the Regulation would be on products that implied a health claim, for example where a label stated the product contained Omega-3, implying it was therefore healthy. **NG** believes this will become clearer when the EFSA guidance is published, but Article 5 requires more detailed information on the back label of products to indicate how much of the nutrient is required in the diet and how much is in the pack.

**NG** emphasised that the Regulation is not intended to hamper innovation in the area of health claims.

**Jenny Lisle of the Faculty of Public Health, Royal College of Physicians**, asked whether the traffic light labelling scheme provides “lights” for each category of fat, salt and sugar. **CC** said the way in which the scheme is implemented varies slightly from food manufacturer to manufacturer, with some following the FSA criteria to the letter while others may not. Waitrose’s own system does so in full, and provides lights for fat, saturated fat, salt and sugar.

**NG** emphasised that health claims and traffic light labelling schemes were two different things and the new European Regulation covers nutrition and health claims.

**Lord Rea** thanked the speakers for clarifying the requirements and importance of the new European Regulation on nutrition and health claims. Before closing the meeting he announced the next FHF meeting, to be held during “Food Allergy Week” in mid January would be on food allergy and food intolerance. A notice with full details will be sent to members shortly.

***CLC, November 2006***