



14 January 2011

First, we would like to thank EFSA for assessing the dossier of evidence we submitted to support our toothkind claim and for liaising with us where necessary during and after that assessment. We are delighted to receive a positive opinion and appreciate EFSA's advice on how we might extend the conditions of use in the future.

We understand that EFSA provides an assessment of the science, whilst it is the role of the Commission to authorise a wording of the claim in line with the requirements of Regulation 1924/2006. We also recognise that the Regulation permits us to communicate claims that do not necessarily reproduce the authorised wording verbatim, provided the same meaning is conveyed to the consumer. Nevertheless, to maximise the clarity that both our organisation and enforcement authorities will have with claims made in the future, we believe the following points are worthy of consideration during the authorisation process.

1. EFSA's opinion states that the following wording reflects the scientific evidence:  
*Frequent consumption of typical juice drinks and sugar-containing, acidic, non-alcoholic beverages may contribute to tooth demineralisation; consumption of "toothkind" juice drinks in replacement of typical juice drinks and sugar-containing, acidic, non-alcoholic beverages may help to reduce tooth demineralisation.*

We understand why EFSA has expressed the claim in this way: this wording expresses the full technical detail of the science in a technical manner.

In our dossier we suggested the following wording for the claim:  
*Toothkind drinks help to maintain healthy teeth.*

We suggested this wording because it is true and it is consistent with the kinds of claims we have made about our product for the last decade or more in the EU. Typical examples of claims we have used include:

*Toothkind* (a registered trademark in the EU)

*Kind to teeth*

*Friendly to teeth*

These are much simpler messages than the scientific wording stated by EFSA. We believe these simple messages are readily assimilated and understood by consumers so that they can easily understand the health benefits of consuming our products. It is also important that the wording is sufficiently practical that we are able to use it across a range of communication media, including not only packaging but also TV, radio and internet advertising, for example, where time and space can be inherently limited. We would be grateful if you could take these general but important considerations into account when authorising a wording for the claim to help ensure that the wording is as simple, succinct and consumer-friendly as possible.

Of course we recognise and accept that Regulation 1924/2006 sets a new framework for the way that food-related claims will be made in the future and we understand that you will need to take EFSA's opinion into account when authorising the claim. Indeed we understand that the examples of claims we have provided above might not be sufficiently detailed to comply with the requirements of 1924/2006, and we might need to compromise on historically used wordings. Please consider the following wording which we believe would comply with the Regulation:

*Replacement of frequently consumed sugar-containing, acidic drinks with toothkind drinks may help reduce tooth demineralisation.*

We believe this should be an acceptable expression, notably complying with Article 5(2), which mandates that the average consumer should be expected to understand the beneficial effects expressed in the claim. This wording is a more succinct, less technical expression of the scientific wording stated by EFSA that would be easily assimilated and understood by consumers. Note that, like EFSA's statement, it references *replacement* and *frequent consumption*, which might be considered key to consumers' understanding of the health benefit. *Typical juice drinks* are, in themselves, *sugar-containing, acidic, non-alcoholic beverages*, so we believe it should not be necessary to refer explicitly and additionally to juice drinks. We consider that the average consumer is unlikely to perceive a toothkind drink as a general alternative to a (*frequently consumed*) alcoholic beverage, so a reference to non-alcoholic beverages should not be necessary in the authorised wording.

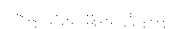
2. It has come to our attention that concerns might be raised by other parties about the scientific wording expressed by EFSA. We understand those parties might have reservations about the comparative element to EFSA's wording and might question whether that expression would comply with Article 3(b) of the Regulation, which stipulates that nutrition

and health claims should not give rise to doubts about the safety and/or the nutritional adequacy of other foods. For the avoidance of doubt, we do not suggest that EFSA's published wording is in breach Article 3(b). This is a subjective question and we accept that EFSA has provided a factual, objective view on the scientific evidence. Importantly, the claimed effect is shown to have a "beneficial nutritional or physiological effect", "facilitates consumer choice" (recital 1 of the Regulation) and does so in the interest of public health. As background, we note the Regulation permits comparative claims and, more broadly, that comparative advertising is permitted in the EU by Directive 2006/114/EC (formerly 84/450/EEC), which states that "comparative advertising, when it compares material, verifiable and representative features and is not misleading, may be a legitimate means of informing consumers of their advantage."

Returning to our suggested wording from point 1, by consolidating EFSA's two statements into a single, simple statement about the benefit of toothkind products, which nevertheless places the claim in the context of replacement, we believe our example is accurate and could not reasonably or objectively be viewed as being in conflict with Article 3(b).

We hope you find the above comments, particularly the example, useful to any discussions you have about the authorisation of our claim. I'm sure you will understand that we would like to be as closely involved as possible during the drafting of the Regulation that will authorise the use of the toothkind claim. Please do not hesitate to contact us if we can provide any assistance during this process. We would be happy to meet with any relevant parties if that would be helpful.

Yours sincerely



GlaxoSmithKline Nutritional Healthcare