

Questions and Answers on Health and Nutrition Claims

What are health and nutrition claims?

Nutrition claims are those used on labels or in advertising/marketing campaigns, which make an assertion about a particular nutritional property of a food. Examples include “high in vitamin C”, “low fat”, “no added sugar” and “high fibre”. Health claims maintain that there is a relationship between a specific food and improved health, or that a food can reduce the risk of a particular disease.

Why did the Commission propose EU legislation on health and nutrition claims on food?

The aim of the draft Regulation on Health and Nutrition Claims is to ensure that consumers are not misled by unsubstantiated, exaggerated or untruthful claims about foodstuffs. With the proposed legislation, consumers would be able to rely on clearer and more accurate information on food labels, enabling them to be properly informed on the food they choose. This ties in with the EU campaign for healthier lifestyle choices, as well as the Commission’s consumer protection objectives. The proposed Regulation also aims to provide food producers and manufacturers with clear, harmonised rules that would ensure fair competition and help protect innovation in the food industry, by ensuring that manufacturers making genuine health and nutrition claims are not competing with false or inaccurate claims.

What products will be covered by the Health and Nutrition Claims legislation?

The Regulation would apply to any food or drink product produced for human consumption to be sold on the EU/ Member States’ market. The proposed new rules do not cover cosmetics, medicine or pet food products.

Why is a link made between nutrient profiles and health and nutrition claims in the Regulation?

Claims are used to present products as having an additional health or nutritional benefit. In most cases, consumers perceive products carrying certain claims to be better for their health and wellbeing. However, at the moment, a food which is high in fat, salt and/or sugar, can still use claims such as “rich in vitamin C” or “high in fibre” to attract consumers, even if the overall health and nutritional benefits of the product are low. The Health and Nutrition Claims Regulation aims to prevent consumers from being misled in this way, by tying the use of health or nutrition claims to certain conditions related to the nutrient profiles (i.e. level of fat, sugar, salt etc) of foods. In order to facilitate the application of this measure, a derogation was agreed in discussions between the Parliament and Council, which will allow nutrition claims to be used if just one nutrient doesn’t meet the required profile. However, the high level of this nutrient must be clearly marked on the label, close to and with the same prominence as the claim. If two or more of the nutrients exceed the limit, no nutritional claim can be made.

What is the procedure for establishing these profiles?

The nutrient profiles will be based on the scientific opinion of the European Food Safety Authority (EFSA). Within 24 months of the Regulation entering into force, the Commission will consult the relevant stakeholders, and present proposals for nutrient profiles to Member State experts in the Standing Committee on the Food Chain and Animal Health. If the Standing Committee backs these proposed nutrient profiles, they will be adopted by the Commission (Comitology procedure) and will enter into force following publication in the Official Journal of the European Communities.

What will be the procedure for authorising new health claims which are not in the EU positive list?

For many well-established 'function' health claims (such as "calcium may be good for your bones"), an EU positive list will be drawn up by the Commission, on the basis of claims submitted by Member States. These health claims will then be allowed to be carried on any label so long as the producer can verify the link between the claim and the product, and the food complies with the nutrient profiles .

For certain other health claims – disease risk reduction claims and claims referring to the health of children – authorisation will be required on a case-by-case basis, following the submission of a scientific dossier to the European Food Safety Authority (EFSA) for assessment. Likewise, health claims based on new scientific data will have to be submitted to EFSA for evaluation before they can be authorised for use. It was agreed during negotiations between the European Parliament and Council that a simplified procedure should be set up for the authorisation of these health claims, in order to encourage innovation in the food industry. Under this simplified procedure, if the EFSA Opinion on the claim is positive, the Commission will take a decision on whether or not to authorise it after simple consultation of Member States. However, if EFSA gives a negative Opinion, the standard Comitology procedure will be used to decide whether or not to authorise the claim i.e. Member State experts will vote on a Commission proposal in the Standing Committee on the Food Chain and Animal Health.

What rules are set out for trademarks and brand names?

The Regulation will apply to any trademark that can be construed as a health or nutrition claim. Within 15 years of the entry into force of the legislation, existing brand names suggesting health benefits (such as promises of weight loss) and which do not meet the requirements of the Regulation must be phased out and removed from the market. No new trademarks or brand names which imply health or nutritional benefits will be allowed to be put on the EU market unless the claims implied can be substantiated, in line with the provisions of the Regulation. However, certain generic descriptors (e.g. Digestives, aperitifs) may apply for derogation from this rule.

What does the Regulation foresee for alcoholic products?

Food and beverages containing more than 1,2 % alcohol will not be allowed to make health or nutrition claims under the proposed legislation, unless the claim refers to a reduction in alcohol or energy content (calories). This is because the over consumption of alcohol is associated with health problems that the EU and Member State authorities are working to reduce or eliminate, and therefore alcohol should not be promoted on the basis of its nutritional properties.

Will any health and nutrition claims be completely banned?

Yes. Information in labelling, marketing or advertising about the nutritional or health benefits of foods which is not clear, accurate or substantiated will not be permitted. In addition, claims referring to rates or amounts of weight loss, as well as claims referring to recommendations of individual doctors will be banned. Health claims on alcoholic beverages above 1.2 % will also not be allowed, except those referring to a reduction in alcohol or energy content, due to the link between alcohol and other health and social problems.

Are there any benefits for the food industry in the proposed rules?

The Commission believes the proposed Regulation has many benefits to offer the food industry. Firstly, it recognises the importance of a clear regulatory environment for the food industry, which will allow greater legal security and a more predictable environment for food operators. The proposed new rules would also serve to support innovation, as manufacturers would be encouraged to develop food and drink products for which health and nutrition claims can genuinely be made. In consultations with stakeholders prior to finalising the proposal, the Commission found that many industry representatives welcomed the proposal as a means of regulating the market-place that until now has been governed by very diverse national rules, and as a way of preventing unfair competition from unscrupulous manufacturers using false or misleading claims. It should be noted that health and nutrition claims are voluntarily put on products by producers as a marketing tool. If positive claims cannot be established, the Regulation does not oblige anyone to make negative claims about the product.

Would self-regulation in the food industry not be sufficient to prevent misleading advertising and labelling?

Voluntary commitments from industry can and do play a role in preventing misleading information from being provided to the consumer and in helping to promote healthier diets and lifestyles. The Commission is working closely with the food and drinks industry through initiatives such as the European Platform on Diet, Physical Activity and Health, and encouraging the food sector to take its own initiatives in promoting healthier lifestyles and better consumer information. However, a single market needs common rules in order for goods to be traded freely and fairly, and this Regulation will create a level playing field for anyone wishing to market food in the EU. It will also protect consumers against certain products which are not subject to self-regulation and which carry false or inaccurate information.