



Food safety update

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EU

Nutrition and health claims – community register launched

The European Commission has launched a new community register of nutrition and health claims on the Directorate General for 'Health and Consumers' webpages.

In the case of approved health claims, the register (which has been set up for information purposes only) displays a list of claims and the nutrient or substance in respect of which they are made. It then explains the approved 'conditions of use' as well as listing the European Food Safety Authority (EFSA) question number, providing a link to the relevant EFSA opinion determining the claim and also to the official journal in which the underlying Commission regulation relating to the specific claim was published. Some of the first approved health claims cover plant sterols, plant sterol esters and chewing gum sweetened with 100 per cent zylitol for disease risk-reduction purposes.

If health claims have been rejected, the register also displays details of the nutrient or substance in question and the reasons for the rejection of the claim. The most common reason is non-compliance with the underlying regulation, namely that a cause and effect relationship has not been demonstrated between consumption of food and the health effect claimed. The register also provides a link to the EFSA opinion and the official journal in which the claim was rejected.

The register can be viewed at www.ec.europa.eu/food/food/labellingnutrition/claims/community_register/index_en.htm.

Commission grants first article 13(5) health claim authorisation

Provexis, a life-science company that discovers, develops and licenses scientifically-proven functional food, medical food and dietary supplement technologies, recently received approval from the European Commission for the use of a health claim for its Fruitflow antithrombotic technology.

The European Commission's Decision 2009/980/EU is the first under article 13(5) of the nutrition and health claims regulation (Regulation (EC) No. 1924/2006), which governs proprietary data and emerging science claims. This was the final stage of the process to substantiate the claim that Fruitflow water-soluble tomato concentrate 'helps maintain normal platelet aggregation, which contributes to healthy blood flow'. A statement made by the company indicates that it understands that flexibility will be allowed in the use of the claim wording in consumer communication and as such will enable 'contributes to healthy blood flow' to be highlighted as the key consumer message. This makes the Commission's decision an important precedent for other applicants.

Under article 13(5), Proxavis has proprietary rights over the majority of the scientific studies substantiating this claim for a period of five years in addition to extensive patent coverage.

UK

Alcohol labelling consultation

The UK Department of Health (DoH) has published a consultation on options for improving information on alcohol labelling.

The consultation comes after the publication of two reports into the implementation of voluntary agreements with the alcohol industry. The reports suggest only 15 per cent of industry members have agreed to print warning labels on bottles. In addition, an official UK survey conducted in 2009 showed that many adults could not correctly identify the number of units of alcohol they were consuming, with only 13 per cent saying they took notice of how many units they were drinking (Office for National Statistics (2010) *Drinking: adults' behaviour and knowledge in 2009*). The government hopes that by increasing awareness of alcohol measurements in units and of the government guidelines for adult men (3-4 units daily) and women (2-3 units daily), more people will also become aware of the potential health risks associated with drinking.

The options considered in the consultation paper are:

- to continue with the current voluntary scheme, set out in an agreement of May 2007. Information on labelling under this scheme is limited to the drink's unit content, the government guideline amounts and the Drinkaware Trust logo or web address in addition to a warning to avoid drinking during pregnancy;
- for a renewed and strengthened self-regulated agreement with industry to improve both coverage and consistency of the expected unit and health information on labels. This self-regulation would include specific commitments by individual producers and retailers with specified agreed timescales; or
- to make unit and health information a mandatory requirement through regulation under the Food Safety Act 1990. Any legislative change would focus on three core requirements similar to the voluntary

scheme. A mandatory requirement would have consequences on consumer choice in addition to becoming a compliance burden and would also result in the imposition of monitoring and enforcement issues under EU law regarding labelling and barriers to trade. The consultation indicates that if this option is pursued no further consultation would take place.

The consultation period runs until May 2010. The consultation paper can be viewed at www.dh.gov.uk/en/Publichealth/Healthimprovement/Alcoholmisuse/DH_112472.

Groceries Supply Code of Practice comes into force

The UK Groceries Supply Code of Practice (GSCOP) came into force on 16 February 2010. It is one of the main recommendations made by the Competition Commission following its inquiry into the UK grocery market and replaces the previous supply code of practice.

The GSCOP has been developed in response to views expressed by the Competition Commission that some grocery retailers had adopted practices that 'transferred excessive risk' and 'unexpected costs' to suppliers. The regulatory authorities hope the GSCOP will prevent such conduct in conjunction with an underlying order, the Groceries (Supply Chain Practices) Market Investigation Order 2009, which places new obligations on grocery retailers when dealing with suppliers.

The Order will be enforced by the Office of Fair Trading, although it remains to be seen who will enforce the GSCOP; options include provisions for dispute resolution under the Order or for a new body of ombudsmen to be established.

The GSCOP also imposes a significant number of duties on retailers, including an overarching fair dealing principle and specific provisions relating to payment, price and promotions.

Food security plan launched

There is growing concern about the potential for major disruption to domestic food supply chains as a result of global pressures such as climate change, international

energy concerns, geopolitical tensions and international terrorism. Reflecting this, the UK's first major food strategy in 60 years was unveiled in January 2010. *Food 2030* is a 20-year strategy designed to make Britons eat more healthily, fight climate change and avoid global food shortages. The key objective is to boost food production in the UK while reducing its environmental impact.

Food 2030 introduces a new 'Healthy Food Code of Practice' as well as outlining plans to focus on working with manufacturers to redesign packaging and labelling. It also reinforces the need for the development of better storage systems and the application of novel technologies to produce energy from food waste.

The strategy indicates that the precise legal implications of global pressures underpinning food security are difficult to discern, but raise the need to 'stress test' certain supply chains to secure product supply. It suggests relevant issues for consideration including:

- the need for robustness of processes for predicting when a supplier may be unable to meet their obligations;
- reliance on a single supplier or region and the implications of a supplier failing to meet their product or packaging obligations;
- reviewing the strength and depth of *force majeure* and indemnity clauses in supply contracts;
- determining whether current insurance cover is adequate; and
- reviewing existing contracts with customers to ensure they are capable of adapting to unexpected price and supply developments.

US **Center for Science in the Public Interest attacks food labelling**

The Centre for Science in the Public Interest (CSPI) has identified more than 50 food products it claims are labelled in a way that misleads consumers. The claims were made in a 158 page report delivered to the US Food and Drugs Administration (FDA) last December.

The CSPI report openly blames the Bush administration for allowing manufacturers 'more and more license

to deceive' so that many labels have 'exaggerated the amount of healthy ingredients' or 'imply that the food has magical, drug-like qualities that could prevent or treat various health problems'.

The report also highlights areas requiring further legislation, reform or enforcement. Perhaps reflecting developments in the EU, one of the main issues is health related claims; the CSPI recommends establishing a comprehensive regulatory framework for prohibiting misleading health claims as well as removing all discretion to allow claims based on weak scientific evidence. Further, it suggests prohibiting '0g trans fat' claims and controlling misleading 'natural' claims. Other areas the CSPI report has highlighted include ingredients labels and the nutrition facts panel, suggesting both need simplification and clarity to protect consumers.

US Food and Drug Administration expresses concern on use of Bisphenol A

The FDA has expressed its concerns over use of the organic compound Bisphenol A, commonly abbreviated as BPA and used primarily to make plastics. In a statement made in January, it raises concerns about the food contact material affecting the brain, behaviour and prostate gland in foetuses, infants and young children. BPA is sometimes used in baby bottles, the lining of infant formula cans and other food can linings.

The FDA has not yet banned BPA, but has stated that it supports the industry's moves to stop producing baby bottles and infant feeding cups containing BPA for the US market, facilitating the development of alternatives and efforts to replace and minimise BPA levels in other linings.

The FDA's comments come after recent studies using novel approaches have tested for subtle effects of the chemical material and follow warnings from the National Toxicology Program and the National Institutes of Health. Further in-depth research is to be carried out.

Newswatch

- The first formal EU definition of nanomaterial as well as rules on its use have been published. However, the preamble to Regulation (EC) No. 1223/2009, which relates to cosmetic products, states that it is also necessary to develop a uniform international definition for the term as the use of nanomaterials will increase as technology develops. Meanwhile, the European Commission has sought comments on a new nanotechnology action plan 2010-2015, which aims to map out research priorities until 2015.
- Deliberation of the Commission's proposed regulation on food labelling will continue before the environment committee of the EU Parliament shortly. Country of origin labelling (COOL) remains a hot topic with debate centred on whether to apply COOL to main ingredients or just finished products. Other key issues include whether to introduce the term 'low carbon', a logo verifying that food has been produced according to environmental, safety and animal welfare standards, and where and how nutritional information should be displayed – it is still unclear whether colour-coded 'traffic-light' symbols will be introduced to guide consumers to healthier eating. The EU Parliament's first reading position is due to be adopted in June.
- The UK Food Safety Authority recently published the findings of a qualitative research project commissioned to explore public attitudes to genetically modified (GM) foods. The project was conducted by the National Centre for Social Research and intended to explore the varied views held by the public on GM foods and understand how such views are reached. The results show a diverse level of understanding and demonstrated how lack of understanding, as well as wider political and moral beliefs, shaped the responses.
- The US FDA recently announced the publication of a new food code – a model code and reference document that builds upon the requirements of the existing code published in 2007 and is intended to provide a 'scientifically sound technical and legal basis for regulating the retail and food service segment of the food industry'. The code is designed to provide all levels of government with practical, science-based guidance as well as manageable provisions to prevent known risks of food-borne illnesses. It will also serve as a reference document for the retail food industry.
- The National Consumers League (NCL) has sent a letter to the FDA encouraging it to renew its efforts to prevent misleading and deceptive labelling of processed fruit and vegetable products. Specifically, the NCL has highlighted its concerns over the use of the word 'fresh' and other such terms indicating fresh produce such as 'vine ripened'. It has suggested that all fruit and vegetable products reconstituted or remanufactured from concentrate be required to disclose this fact prominently on the label's front panel. Past action by the NCL led to the FDA prohibiting the use of the term 'fresh' on any fruit or vegetable product reconstituted or remanufactured from concentrate.
- The FDA and the US Food Safety and Inspection Service (FSIS), which currently share authority for ensuring the safety of US food supplies, recently stated during a public meeting that they plan to collaborate to improve the tracing of unsafe food products. Their efforts will centre on increasing the speed and accuracy of trace-back investigations and trace-forward operations. The organisations hope that publicising the new collaboration will increase public input when carrying out such investigations and operations.

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