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Food Standards Agency
Room 6B
Aviation House
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3 August 2009

Dear Tim,

Consultation on the setting of nutrient profiles under European Regulation (EC) No 1924/2006 on nutrition and health claims made on foods

I am writing in response to your request for comments on the European Commissions working documents on the setting of nutrient profiles under Regulation 1924/2006 on Nutrition and Health Claims.

I am responding on behalf of the Seafish Food Legislation Expert Group, a cross-sectoral group composed of representatives from the various trade organisations of the UK seafood industry, from catchers through to retailers.

The Nutrition and health Claims Regulation came into force on 18th January 2007. This Regulation controls the use of any health or nutrition claims made on foods. Under this Regulation the Commission must establish nutrient profiles for foods. Profiles will set limits for certain nutrients in foods. These profiles will then be used to determine if a food can use any approved health or nutrition claims. The purpose of this is to prevent health or nutrition claims being made on foods which are unhealthy in other respects.

If a food has one nutrient out of profile it will not be able to make a health claim. But it will be able to make a nutrition claim if it also declares it is high in the nutrient that is out of profile. If a food has more than two nutrients out of profile it will not be able to make any health or nutrition claims.

Where necessary profiles include sodium, saturated fat and sugars as these were felt to be the nutrients that were too high in the European diet.

In response to the specific question asked;

1. Exemptions from the profiles

(a) Total exemptions from any profiles

Q1 Are the categories that have been suggested for total exemption from the nutrient profiles appropriate?

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Some foods are excluded from profiling; this is where the nutrient profile is set by law, where the food makes no significant contribution to the diet or where the food is considered to play an important role in the diet.

Q2 Are there too many or too few categories that are considered for a total exemption? Please give full reasoning and evidence.

The only foods that are exempt from nutritional profiling due to their importance in the diet without reformulating are raw fruit and vegetables or juices without sugar. There are other unprocessed foods that are important in the diet that should be excluded from profiling.

Raw/unprocessed fish and shellfish should be exempt from nutritional profiling whilst keeping the fish and fish products category for seafood that has undergone processing.

The consumption of fish and shellfish is encouraged due to it being a low fat source of protein and a valuable source of some minerals and Omega-3 that can be difficult to find in other foods. These products do have an adapted profile and in most cases unprocessed products would meet this profile. Including raw/unprocessed fish and shellfish in the fish and shellfish category means that if a producer wishes to promote the health benefits of these products, they may have to implement testing regimes to prove that the profile is met. This is an additional burden which may prevent these foods from being promoted and reduce consumption. This will be particularly so, if the scope of the NHCR is interpreted to cover a wide range of off pack promotional materials.

(b) Exemptions within categories/subcategories – application of adapted profiles

Other foods that are felt to have an important role in the diet have altered profiles to take account of the fact that they may have higher levels of the stated nutrients. Fish and fish products have an altered profile to allow for higher sodium and saturated fat levels.

Q3 Are the number and type of categories/subcategories that have been suggested here appropriate?

Yes these seem appropriate for processed fish products. From data we have it appears that most seafood products made in the UK would meet the profile. Product produced in other Member States may not as the data suggests they may have a higher salt content.

Q4 Are there any other categories/subcategories that should be considered under an adapted profile? Please give full reasoning and evidence if suggesting further categories/subcategories.

No comment

Q5 Are you content with the proposed method for defining categories and subcategories and how products will fall within these? If commenting on the minimum content for inclusion, please give data on product composition to illustrate any issues you wish to raise.

Foods have been categorised using the European Information Resource Network (Eurofin). This has the category 'Seafood and related product'; which is broken down into further sub categories of 'seafood dish', 'seafood product' and 'fish or related organism'

The eligibility criteria for these categories were considered insufficient for nutrient profiling so new criteria are proposed for a single category of 'Fish and Fish Products' of 50g fish per 100g product. The Commission still need information to evaluate the impact of eligibility criteria.

Products falling outside of this category will fall within the generic profile.

The fish and fish products category has two values given 50g and 75g per 100g in this consultation, although the Commission paper only states 50g. The 50g per 100g of product is sufficient to ensure that most fish products will be included, but 75g may exclude many fish products. Coated products have an average of 60g per 100g and if the 75g limit is applied these will fall within the generic profile. The salt level for this profile may then mean that these products cannot make claims. This situation should be avoided as these products are particularly important in encouraging children to eat fish.

Q6 How easy do you find it to categorise products using the proposed system?

No comment

Q7 Some Member States have raised concerns over how to categorise particular products e.g. whether fromage frais ('fresh cheese') is a cheese or a dairy dessert. Are you aware of other products that could be allocated to more than one of the proposed categories?

No comment

2. Structure of the profiles

Q8 The generic profile (which applies to the 'other foods' category in the European Commission working document) will apply to foods not falling within specific categories, where adapted profiles will apply; are you content with this proposed category-based approach?

Yes

3. Choice of nutrients

Q9 Is the choice of nutrients included in the profiles appropriate?

Yes, the nutrients chosen are sugar, salt and saturated fat. These have been identified as too high in the European diet. Although fat and energy may also be too high including these nutrients may classify foods that contain healthy fats as unhealthy.

Q10 Do you have any comments on the inclusion of additional nutrients, either for all categories or specific categories/subcategories? Please give full reasoning and evidence if suggesting that nutrients should be removed or further nutrients should be included.



No comment

4. Reference quantity

Q11 There is a growing consensus among Member States that all profiles should be based on a per 100g basis (of food ready for consumption in accordance with manufacturer's instructions). Please give full reasoning and evidence if suggesting an alternative basis, including whether this should be across the board or only applied to specific categories or subcategories.

No Comment

5. Thresholds

Q12 The European Commission has developed a testing tool which has been included as part of this consultation package. This can be used to see how variations in the thresholds for the main profile and adapted profiles would affect the claims that can be made on foods in the test basket and manufacturers' products.

Limits are set for sodium, sat fat and sugars

Category	Sodium (mg/100g)	Sat fat (g/100g)	Sugars (g/100g)
fish and fish products	500	10	-
Generic	300	2	10

500mg is equivalent to 1.25g of salt. This would have been amber under the FSA traffic light scheme.

Data from Shellfish Association of Great Britain and McCance and Widdowson show that this profile would only be a problem for Oysters with sodium at 512mg, although cockles are marginal at 492mg. Fishery products were all within profile.

However the data used by the Commission to test the profile indicates problems with sodium levels in a wide range of seafood products. In some of these products e.g. salt cod this would be expected, but there were also high levels of sodium found in raw crayfish and mussels as well as a wide range of smoked fish, fish canned in sauces and oils and some fish products. While these were samples from outside the UK, it could indicate a potential problem.

There is no comprehensive database for all foods, therefore information has been gathered from many sources. The accuracy and testing methods for this data cannot be guaranteed. For example where seafood products show high sodium levels, it is not recorded whether salt was added during cooking. If this data is used to determine whether a specific product meets the profile it may lead to incorrect implementation of the profiles.

If certain products are determined to be out of nutritional profile by reference to official data, then a producer will have to submit evidence from product testing that his product is within profile. This could be more of a problem for primary producers who do not supply nutritional information with their products and have not previously carried out such testing.

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Using official data could also affect generic advertising that may still fall within the NHCR. As this could refer to a generic product rather than a specific brand it may not be possible to supply product specific data and the official database may have to be used.

Q13 We would welcome comments on the proposed thresholds for the main profile and adapted profiles. Please be as specific as you can about what foods would be affected by changing the thresholds – information on the number of foods only is not sufficiently detailed to be of use in negotiations.

No comment

Q14 Are there alternative thresholds you would like to suggest for particular categories? Please give full reasoning and evidence for any suggested changes.

No comment

Yours Sincerely

Fiona Wright

Food Standards Officer