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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 1924/2006 on nutrition and health claims made on foods

(presented by the Commission)

EXPLANATORY MEMORANDUM

The proposal consists of two amendments to article 14 and 28 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods. Its purpose is to provide for an adequate transitional period for health claims referring to children's development and health.

Such health claims, like other health and nutrition claims, are already used in the Community market. Nutrition claims which have been used in a Member State before 1 January 2006 in compliance with national provisions applicable to them and which are not included in the Annex of the Regulation (EC) No 1924/2006, may continue to be used until three years after the entry into force of the Regulation. Health claims other than those referring to children development and health also benefit for transitional measures detailed in article 28, paragraphs 5 and 6 of this Regulation.

However, Regulation (EC) No 1924/2006 ended up not foreseeing similar transitional measure for claims referring to children development and health. This situation arose from the different amendments to the Regulation adopted during the codecision procedure. In order to ensure better protection of children, it was decided to consider the claims referring to their development and health under the same regime as the reduction of disease risk claims (authorisation). This change was introduced by two amendments that consisted in adding the words "and claims referring to children's development and health" to the title and the first paragraph of article 14 of the Regulation, which is dealing with the reduction of disease risk claims. As a consequence, claims referring to children are treated as the disease risk claims for which no transition period is foreseen by the Regulation because they were not allowed under the rules applicable prior to the adoption of the Regulation.

The lack of transitional measures for the claims referring to children's development and health would imply that as from the application of the Regulation (1 July 2007), those claims would not be allowed to be made for products produced after that date. The only existing transitional measure applicable to claims referring to children's development and health is laid down in article 28, paragraphs 1. It concerns the products that will be placed on the market or labelled before 1 July 2007. This transitional period will apply to the products physically present on the shelves or already labelled, but not to products produced and distributed after that date. When stocks run out, an interruption to the market will occur.

It is therefore proposed to provide transitional measures for claims referring to children's development and health.

Such a transitional period and authorisation process for claims referring to children's development and health will ensure the protection of the group of consumers for which they are intended, and provide the economic operators with the adequate time to ensure a smooth transition in complying with the provisions of the Regulation.

The proposal has no implications for the budget of the European Community.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 1924/2006 on nutrition and health claims made on foods

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) Regulation (EC) No 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods establishes rules for the use of claims in the labelling, the presentation and the advertising of foods.
- (2) Health claims are prohibited unless they comply with the general and specific requirements laid down by Regulation (EC) No 1924/2006 and unless they are included in Community lists of authorised health claims. Those lists of health claims remain to be established following procedures detailed in the Regulation. As a consequence, those lists will not be in force on the 1 July 2007, date of application of the Regulation.
- (3) For this reason, Regulation (EC) No 1924/2006 provides for transitional measures for health claims other than those referring to the reduction of disease risk and to children's development and health.
- (4) Concerning health claims referring to the reduction of disease risk, no transitional measure was needed. Due to the prohibition of claims referring to the prevention, the treatment and the cure of a disease by Directive 2000/13/EC, and the introduction of the new category of claims referring to the reduction of disease risk by the Regulation

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

(EC) No 1924/2006, products carrying such claims should not have been on the Community market.

- (5) The category of claims referring to children's development and health was introduced at a very late stage of the procedure for the adoption of Regulation (EC) No 1924/2006, without providing for transitional measures. However, products carrying such claims are already present on the Community market.
- (6) In order to avoid disruption of the market, it is therefore appropriate to submit claims referring to children development and health to the same transitional measures as the other health claims.
- (7) Regulation (EC) No 1924/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1924/2006 is amended as follows:

- (1) In Article 14, paragraph 1 is replaced by the following:
 - '1. Notwithstanding Article 2(1)(b) of Directive 2000/13/EC, the following claims may be made where they have been authorised in accordance with the procedure laid down in Articles 15, 16, 17 and 19 of this Regulation for inclusion in a Community list of such permitted claims together with all the necessary conditions for the use of these claims:
 - (a) reduction of disease risk claims,
 - (b) claims referring to children's development and health.'
- (2) In Article 28(6), the introductory sentence is replaced by the following:

'Health claims other than those referred to in Article 13(1)(a) and in Article 14(1)(a), which have been used in compliance with national provisions before the date of entry into force of this Regulation, shall be subject to the following:'

Article 2

This Regulation shall enter into force on 1 July 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President