

ASSOCIATION EUROPEENNE DE DROIT DE L'ALIMENTATION

EUROPEAN FOOD LAW ASSOCIATION

CODEX COMMITTEE ON FOOD LAW

PROPOSED CODEX DRAFT RECOMMENDATIONS FOR THE USE OF HEALTH CLAIMS (ALINORM 01/22) COMMENTS OF THE EUROPEAN FOOD LAW ASSOCIATION - EFLA

GENERAL REMARKS

The European Food Law Association (EFLA) is comprised of professionals working in all branches of the food sector, including executives from the industry or trade and officials in National or European administrations, academics, consultants and lawyers. EFLA submitted comments on the Proposed Codex Draft Recommendations for the Use of Health Claims to the Codex Committee on Food Labelling (CCFL or Committee) during the committee meeting in 1999.

COMMENTS on 2.2.2 Enhanced Function Claims

During the last CCFL session, The Committee decided to delete the term "psychological" from the proposed definition of enhanced function claims in response to concerns raised by some delegations that psychological functions could not be properly substantiated.

While this is certainly a legitimate concern, EFLA would like to point out that another provision of the proposed draft recommendation already addresses this concern. Paragraph 7.2.1. of the proposed draft recommendation provides that any claim has to be based on scientific substantiation satisfying the requirements of the competent authority of the country where the product is sold. Therefore, if a claim describing the "psychological" effects of a food or ingredient cannot be substantiated properly, a producer would not be allowed to make such a claim.

Many psychological functions, however, can be measured objectively, reliably and validly by standardised test systems supported by modern computer technology. Their assessment is, therefore, comparable to the measurement of physiological functions or basic biological states, and does not cause any difficulties from a scientific point of view (see also Consensus Report on "Scientific Concepts of Functional Food in Europe" (FUFOSE) in the April 1999 issue of the British Journal of Nutrition (Diplock et al. 1999)).

Moreover, there is scientific consensus that certain psychological functions, such as attention, recognition and other parameters of mental performance, can be beneficially affected by foods

and food components. Such functions are important in a wide variety of every day activities, including performance at work and driving (for review see Vehicle Accidents Related to Sleep: A Review in Occupational Environmental Medicine, May 1999, Volume 56, No. 5, p. 289-294).

To exclude psychological functions such as cognitive or mental performance from the definition of “enhanced function claims” would be arbitrary and illogical. Such exclusion would permit claims referring to physiological functions and biological activities to be harmonised under the Codex system, while leaving psychological claims unregulated. Under this scenario, claims describing effects on physiological functions and biological activities would have detailed substantiation requirements, yet claims describing effects on important psychological functions such as attention, awareness, learning, memory, orientation, perception and recognition, would not be subject to the substantiation requirements.

Furthermore, the border between psychological functions and certain biological activities such as stress, activation or alertness is blurred and considerable overlap exists. To include biological activities, but to omit psychological functions would amount to an artificial division which would be contrary to any harmonisation efforts. Accordingly, EFLA believes that such psychological functions should also be covered by the proposed draft recommendations.

We therefore recommend that “enhanced function claims” should be defined as follows:

"These claims concern specific beneficial effects of the consumption of foods and their constituents on physiological or psychological [cognitive] [mental] functions or biological activities but do not include nutrient function claims. Such claims relate to a positive contribution to health or to a condition linked to health or to the improvement of a function or to modifying or preserving health."

Secretary General : Nicole COUTRELIS
c/o COUTRELIS & ASSOCIES – 235, rue de la Loi – 1040 Brussels – Belgium
Tel. : +32.2.230.48.45 – Fax : +32.2.230.82.06 – e-mail : efla_aeda@hotmail.com