

CONSULTATION

Topic: European Commission discussion paper on a revision of technical issues in Directive 90/496/EEC on Nutrition Labelling for Foodstuffs:

Start date of consultation: Tuesday, 23rd May 2006

Closing date of consultation: Friday, 30th June 2006

Consultation details

Council Directive 90/496/EEC on Nutrition Labelling of Foodstuffs provides for the possibility of amending specific aspects of the legislation via the Standing Committee procedure. Whilst the Commission continues to reflect on some of the more fundamental issues related to the revision of this Directive, it has been decided that it would be timely to address some aspects which can be considered under the broad heading of 'technical issues'; particularly as they may be an important and necessary support for other related Community legislation in force such as the directives on food supplements and dietetic foods and for the regulatory proposals nearing final adoption regarding *nutrition and health claims made on foods* and the *addition of vitamins and minerals and of certain other substances to foods*.

The EC's consultation paper focuses on the following technical aspects of Council Directive 90/496/EEC:

- Reference values for Vitamins and Minerals
- Nutrient Definitions
- Energy Conversion Factors
- Tolerances for nutrient declaration

It also includes summaries of the comments received from the 2003 consultation on the revision of the Nutrition Labelling Directive as well as highlighting other work which might be relevant to discussions on how the legislation might be amended.

The FSAI welcomes your views in regard to the EU consultation document and in particular, we invite you to submit your comments in relation to the questions highlighted in this information note.

Responses should be submitted by 5pm on Friday, 30th June 2006 to: consultation@fsai.ie

Or via post to:

Consultations, Food Safety Authority of Ireland, Abbey Court, Lower Abbey Street, Dublin 1.

Fax +353 1 817 1301

Section 1: Reference values for Vitamins and Minerals

Current Legislation

The Annex to the Nutrition Labelling Directive (90/496/EEC) lists vitamins and minerals which may be declared on the nutrition label, their recommended daily allowances (RDAs), and specifies what is a 'significant amount' (15% of the RDA per 100g or 100ml). Article 1, paragraph 4(a) of the Directive allows for changes to the list of vitamins, minerals and their recommended daily allowances to be adopted via the Standing Committee procedure.

The Scientific Committee for Food (SCF) published an opinion on the *Revision of Reference Values for Nutrition Labelling* on the 5 March 2003 http://ec.europa.eu/food/fs/sc/scf/out171_en.pdf. This sets out Reference Labelling Values (RLVs) for adults and for children aged 6 months to 4 years. The SCF report covers the vitamins and minerals listed in Directive 2001/15/EEC (foods for particular nutritional use), Directive 2002/46/EEC (food supplements), and those listed in the draft proposal on the addition of vitamins and minerals. Annex 1 of the EU discussion paper provides a comparison between the figures proposed by the SCF and those in the current Annex to the Nutrition Labelling Directive.

It should also be noted that in the European Commission proposal on *the addition of vitamins and minerals and certain other substances to foods* the lists of vitamins and minerals contained within the proposal include many more nutrients than the ones listed in the Annex of Directive 90/496/EEC. A compromise text of the proposal has recently been adopted by the European Parliament in plenary and the Council is due to adopt the final legislation in the coming weeks.

The *Codex Guidelines on Nutrition Labelling* (CAC/GL 2-1985 (Rev.1 – 1993)) provide Nutrient Reference Values (NRVs) for 14 vitamins and minerals to be used for labelling purposes. These NRVs are the same as the RDAs in the current Annex to the Nutrition Labelling Directive.

A discussion paper on *The Proposals for Addition of Revised Nutrient Reference Values for Labelling Purposes* ftp://ftp.fao.org/codex/ccnfsdu27/nf27_04e.pdf was presented at the 27th Session of the Codex Committee on Nutrition and Foods for Special Dietary Purposes (CCNFSDU) in Bonn, Germany in November 2005. The Committee agreed to continue development of the paper.

Comments are sought on the following questions:

- 1.1. Are the values in the SCF opinion on the Revision of Reference Values for Nutrition Labelling an acceptable basis for updating the Annex to the Nutrition Labelling Directive?
- 1.2. Are there concerns about any of the values in the SCF opinion?

- 1.3. Is there a need to have values for different population groups in the Annex?
- 1.4. Is there a need for consistency/harmonisation in the naming of vitamins on the nutrition label? Are there any examples where this has caused a problem?
- 1.5. Is there a need to change the figure for what constitutes a significant amount?
- 1.6. In view of the fact that other terms are being used for labelling purposes (guideline daily amounts, reference labelling values), is the term ‘recommended daily amount’ still acceptable?

Section2: Nutrient Definitions

Current legislation

Article 1, paragraph 4 of the Nutrition Labelling Directive 90/496/EEC provides definitions for a number of nutrients that are used in nutrition labelling. In paragraph 4(j), it is noted that ‘fibre’ means the material to be defined according to Standing Committee procedure and measured by the method of analysis to be determined in accordance with that procedure.

At its 27th session the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) made further progress on moving towards an agreed definition for fibre (considering this within the discussions on the *Guidelines for the Use of Nutrition Claims: Draft Table of Conditions for Nutrient Contents*).

The latest definition, which will be subject to further comment and discussions at the next session of the Committee (November 2006) states that: “*Dietary fibre means carbohydrate polymers with a degree of polymerisation (DP) not lower than 3 which are neither digested nor absorbed in the small intestine. A degree of polymerisation not lower than 3 is intended to exclude mono- and disaccharides. It is not intended to reflect the average DP of a mixture. Dietary fibre consists of one or more of:*

- *Edible carbohydrate polymers naturally occurring in the food as consumed,*
- *carbohydrate polymers, which have been obtained from food rawmaterial by physical, enzymatic or chemical means*
- *synthetic carbohydrate polymers.”*

It should be noted that in the draft Codex guidelines the definition is linked to text on the properties of dietary fibre and to a footnote providing further information on dietary fibre derived from plant origin. The full text is given in Annex 2 of the EU discussion document.

Comments are sought on the following questions:

- 2.1 Are the current Codex discussions a suitable basis for setting down a definition of fibre in the Nutrition Labelling Directive?
- 2.2 Are there any concerns about this definition and how it might be incorporated into the Directive? For example, how should the issue of the footnote in the Codex text be dealt with?

Section 3: Energy Conversion Factors

Current Legislation

Article 5, paragraph 1 of Council Directive 90/496/EEC provides energy conversion factors for a range of nutrients (carbohydrates, polyols, protein, fat, alcohol and organic acids). Paragraph 2 notes that amendments to these conversion factors can be made via the Standing Committee procedure, as can additions for substances which belong to or are components of one of the categories of nutrients listed in paragraph 1; the purpose being to more precisely calculate the energy value of foods.

The Standing Committee procedure was used in 2003 to introduce a conversion factor for salatrims (Directive 2003/120/EEC).

Conversion factors in the current *Codex Guidelines on Nutrition Labelling* (CAC/GL 2-1985 (Rev.1 – 1993)) are in line with those in the Nutrition Labelling Directive, although the latter also includes values for polyols and salatrims. Whilst there have been discussions within the CCNFSDU over recent years, there is no clear timetable for when further work on energy conversion factors will be taken forward.

The FAO/WHO workshop on *Food Energy – methods of analysis and conversion factors* was held in Rome, 3-6 December 2002 published a report in 2003, highlighting that there is a major need to rationalise and harmonise methods of food analysis and energy conversion factors. The outcome of the workshop was a list of recommended methods of food analysis, from the most desirable based on current science to those approaches considered acceptable given current realities. For food energy conversion factors, the preferred factors are integrated into the recommendations, based on the analytical methods used. <ftp://ftp.fao.org/docrep/fao/006/y5022e/y5022e00.pdf>

Comments are sought on the following questions:

- 3.1 Is there any need to amend the current energy conversion factors in the Nutrition Labelling Directive?
- 3.2 Is there any need to add to the current energy conversion factors in the Nutrition Labelling Directive? For example, is a conversion factor for fibre required or for

Section 4: Tolerances for nutrient declaration

Current Legislation

The Nutrition Labelling Directive stipulates that the definition of tolerable margins between values declared on labelling and those obtained by official controls should be determined following the Standing Committee procedure. The task of setting tolerable margins for the declaration of nutrient content for food supplements was also identified as a priority during the discussions that led to the adoption of Directive 2002/46/EC on food supplements.

The *Codex Guidelines on Nutrition Labelling* (CAC/GL 2-1985 (Rev.1 –1993)) state in the section 3.5 Tolerances and Compliance that:

- *Tolerance limits should be set in relation to public health concerns, shelf-life, accuracy of analysis, processing variability and inherent lability and variability of the nutrient in the product, and, according to whether the nutrient has been added or is naturally occurring in the product.*
- *The values used in nutrient declaration should be weighted average values derived from data specifically obtained from analyses of products which are representative of the product being labelled.*
- *In those cases where a product is subject to a Codex standard, requirements for tolerances for nutrient declaration established by the standard should take precedence over these guidelines.*

Some Member States have provided guidance on tolerances for nutrient declarations, (examples from Denmark and the UK are set out in Annex 3 of the EU Consultation paper). For macronutrients, both examples follow a similar general approach, with the acceptable level of tolerance decreasing as the level of the macronutrient in a product increases. The actual guideline figures are different, but not dissimilar. For example, for a product that declares 25% fat, the Danish tolerance will be $\pm 15\%$ and the UK $\pm 20\%$. For added vitamins and minerals, the Danish guidance allows 80-150% of the declared value (to take into account the loss of nutrient over time). It also notes the importance of the actual nutrient content being within tolerance limits during the whole shelf life period, and that if there are minimum and maximum limits prescribed in legislation then the analysed amount must not exceed these. The UK takes a different approach, providing tolerances for water soluble vitamins and minerals (+100% or -50% of the declared value) and oil soluble vitamins ($\pm 30\%$).

The Canadian authorities have published guidance to accompany legislation passed in 2003 that will require most prepackaged foods in Canada to bear a Nutrition Facts table. Whilst the acceptable tolerance is basically similar, i.e. $\pm 20\%$, the actual guidance is much

more prescriptive, being based on a sound statistical framework. The purpose being to ensure the industry has a high probability of a label declaration being within the tolerance, whilst the consumer would have an equally high probability that that the label declaration accurately reflects the nutrient content of the food. This statistical approach takes into account nutrient variability in foods as well as method variability. Annex 4 of the EU discussion paper summarises the Canadian system, which in addition to setting tolerances also provides rounding rules for nutrient declarations and specifies methods of analysis.

Comments are sought on the following questions:

- 4.1 What are the important factors to take into account in setting tolerances for nutrient declarations?
 - 4.2 Is a 'simple' (e.g. UK/Danish approach) or 'complex' (e.g. Canadian) system preferred? What are the benefits and disadvantages of each?
 - 4.3 Should different tolerances be set for different product categories? In particular, how should the issue of adding overages for some vitamins to take account of losses during long-term storage be dealt with?
 - 4.4 How should products with inherent variability or seasonal variation, such as fresh meat, be dealt with?
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