



EUROPEAN PARLIAMENT

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*Plenary sitting*

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B7-0000/2012

## **MOTION FOR A RESOLUTION**

pursuant to Rule 88(2) of the Rules of Procedure

by Chris Davies and Sirpa Pietikäinen

on the draft Commission regulation (EU) No..../....establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health

**Committee on the Environment, Public Health and Food Safety**

**European Parliament resolution on the draft Commission regulation (EU) No..../....establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health**

*The European Parliament,*

- having regard to Regulation (EC) No 1924/2006 on nutrition and health claims on foods and in particular, Articles 13(1), 14 and recitals 26 and 33 thereof<sup>1</sup>,
  - having regard to the draft Commission regulation establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health<sup>2</sup> (the draft Regulation),
  - having regard to Article 5a(3)(b) of the Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>3</sup>,
  - having regard to Rule 88(2) and (4)(b) of its Rules of Procedure,
- A. whereas Parliament acknowledges that the health claims in the permitted list contained in the Annex to the draft Regulation were evaluated scientifically by the European Food Safety Authority (EFSA) in accordance with the requirements of Regulation (EC) No 1924/2006;
- B. whereas recital 26 of Regulation (EC) No 1924/2006 calls, for reasons of proportionality, for a different type of authorisation and assessment of health claims under Article 13(1) (health claims other than those referring to the reduction of disease risk and to children's development and health) as opposed to Article 14 claims (reduction of disease risk claims and claims referring to children's development and health);
- C. whereas the Commission has not undertaken a different methodology of authorisation and assessment despite this requirement being stated in recital 26;
- D. whereas there are clear examples of the rigidity of the assessment process leading to the rejection of health claims based on generally accepted scientific evidence despite the health benefits associated with these substances being widely accepted;
- E. whereas consumers may feel misled by some permitted health claims which are not relevant to European citizens or in relation to health claims based on generally accepted scientific evidence which are rejected;
- F. whereas Article 6 of Regulation 1924/2006 states that a food business making a nutrition or health claim shall justify the use of the claim, and this will prevent a food business

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<sup>1</sup> OJ L 404, 30.12.2006, p. 9.

<sup>2</sup> REFERENCE: COM-AC\_DRC(2010)D012200-02 FULL (<http://www.europarl.europa.eu>)

<sup>3</sup> OJ L 184, 17.7.1999, p.23.

operator from advising clients with regard to any of the products that have received a negative assessment from EFSA;

- G. whereas all health claims relating to "botanical" substances were put on hold by the Commission in order to allow for a period of reflection on a proper methodology for their assessment;
- H. whereas the harmonisation of health claims that can be made on foods across the EU can benefit both consumers and industry by delivering a high level of consumer protection and legal certainty for industry;
- I. whereas Parliament deplores the delay in setting nutrient profiles for foods bearing nutrition and health claims pursuant to Article 4 of the Regulation (EC) No 1924/2006;
- J. whereas recital 33 of Regulation (EC) No 1924/2006 requires EFSA to publish appropriate technical guidance and tools to facilitate the implementation of this Regulation and whereas EFSA did not however formally present any such guidance before the submission of the Article 13(1) claims and did so only when it first released its opinions on 1 October 2009;
- K. whereas, despite the Commission's instructions<sup>1</sup>, EFSA has not published advice on the extent to which the scientific evidence demonstrates a cause and effect relationship, and whereas the evidence submitted in support of some claims was not even considered due to 'substance characterisation' requirements that were not communicated to applicants in advance of the deadline for the submission of claims for assessment;
- L. whereas it is the role of the Commission to ensure the implementation of the Regulation as agreed, and not to pick and choose those parts with which they concur and from which they dissent;
- M. whereas, for the above-mentioned reasons, the justification and proportionality of the assessment procedure used for Article 13(1) health claims is brought into question;
1. Opposes adoption of the draft Commission regulation establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health<sup>2</sup>;
  2. Considers that the draft Commission Regulation does not respect the principle of proportionality and is not compatible with the aim and content of the basic instrument;
  3. Asks the Commission to call upon EFSA to reassess the health claims based on generally accepted scientific evidence as stated in recital 26 of Regulation (EC) 1924/2006;
  4. Calls on the Commission to submit to the Committee an amended draft of the measure which includes in particular the list of those health claims already permitted and contained in the Annex to the draft Regulation and which takes account of the reassessment referred

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<sup>1</sup> <http://www.efsa.europa.eu/en/ndaclaims13/docs/ndaart13tor.pdf>

<sup>2</sup> REFERENCE : COM-AC\_DRC(2010)D012200-02 FULL (<http://www.europarl.europa.eu>)

to above;

5. Urges the Commission to refrain from publishing the Union Register of rejected claims until the European Ombudsman has delivered its opinion on the application of Regulation 1924/2006 concerning nutrition and health claims made on foods<sup>1</sup>;
6. Instructs its President to forward this resolution to the Council, the Commission, and the governments and parliaments of the Member States.

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<sup>1</sup> 1951/2011/DK  
(<http://www.ombudsman.europa.eu/en/cases/caseopened.faces/en/11026/html.bookmark>)