E-0318/10EN
Answer given by Mr Dalli
on behalf of the Commission
(10.3.2010)

The aim of Regulation (EC) No 1924/2006[1] on nutrition and health claims is to ensure that nutrition and health claims made on foods are truthful, clear, reliable and useful to the consumer, and based on generally accepted scientific evidence so that the consumer is fully protected. Equally, the Regulation aims to improve the free movement of goods, increase the legal security for business operators, ensure fair competition and stimulate innovation.

The Commission is fully aware that the opinions of the European Food Safety Authority (EFSA) published on 1 October 2009 have raised a number of issues and, in its role of regulator, will consider carefully those issues.

Further to the specific questions:

Member States initially submitted more than 44,000 health claims for inclusion in the Community list of permitted health claims foreseen in Article 13(3) of Regulation (EC) No 1924/2006. These claims have now been brought down to around 4,000. The submission of so many health claims will unavoidably influence the process, and examining such an unexpectedly high number of health claims is not possible within the timeframe foreseen in the Regulation. While having published the first series of opinions, EFSA expects finalisation of the assessment of all the submitted health claims only by the end of 2011.

In an effort to fulfil the intention of the legislator, and to protect the consumers against misleading claims and provide clarity in the market, the Commission is actively working on the health claims assessed by EFSA so that the Community list of permitted health claims could be adopted as quickly as possible. Potential effects on the market resulting from decisions that will follow the publication of the EFSA opinions will depend on the number of the claims that will be rejected and will be considered in that context, in the framework of the relevant provision of Regulation (EC) No 1924/2006.

All claims to be authorised under Regulation (EC) No 1924/2006 shall, in accordance with Article 6(1) of the Regulation, be based on and substantiated by "generally accepted scientific evidence". EFSA is required to give advice as to whether the requirement of "generally accepted scientific evidence" is fulfilled.

Recital 26 of Regulation (EC) No 1924/2006 explains that: "Health claims other than those referring to the reduction of disease risk and to children's development and health, based on generally accepted scientific evidence, should undergo a different type of assessment and authorisation." It has to be noted that only the "type" and not the "level" of the assessment is referred to in the recital. In addition, recital 23 states that health claims should only be authorised for use in the Community after a scientific assessment of "the highest possible standard". Further explanation on the assessment is also found in recital 17 the Regulation.

For some health claims subject to the process referred to in Article 13(2)-(3) of the Regulation, it could be expected that EFSA will carry out a "different type of assessment" than for health claims referred to in Article 13(5) or 14(1). This is due to the fact that for some claims it is evidently clear (e.g. the so-called "text book" claims e.g. "calcium is important in the development of your bones") that they are based on "generally accepted scientific evidence".

---

[1] Regulation (EC) No 1924/2006 of Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, OJ L 404, 30.12.2006.
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:404:0009:0025:EN:PDF