WRITTEN QUESTION E-0318/10
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to the Commission

Subject: Nutrition and health claims made on foods

Article 13 of Regulation (EC) No 1924/2006[1] of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods was developed to ensure that the well-established claims for foods currently on the market could continue to exist after their substantiation had been verified by EFSA. It was also planned that SMEs would be able to use claims on their products without having to invest in a lengthy and costly authorisation procedure.

It is now expected that most claims submitted for inclusion in the Article 13 list will not be approved by EFSA, not because of lack of evidence, but because of flaws in the process. In particular, the current chaotic implementation of this Regulation will lead to the publication of lists of adopted Article13 health claims in four batches following EFSA's refusal to provide its opinions all together as foreseen by the Regulation. This piecemeal adoption of implementing regulations unnecessarily distorts a competitive market. For example, numerous companies with multi-combination formulations face a commercial catastrophe where some substances are regulated while others face many months of delay waiting for subsequent EFSA opinions. In addition, there has been no economic impact assessment on the effects of regulation, including unregulated claims, enforcement issues and transition arrangements.

We therefore request answers to the following questions:

1. What is the Commission's view on the considerable market distortion and unfair competition created by the publication of EFSA opinions – and the subsequent adoption of decision – in different batches over a long period of time (from February 2010 until 2012), instead of a single publication as envisaged by the Regulation? The Regulation presumes publication of the final list in one go, and not in several batches a long time after expiry of the deadline given by the Regulation, i.e. 19 January 2010.

2. What is the Commission's view on the fact that EFSA evaluates the Article 13(1) health claims in the same way as the other types of health claims (i.e. Articles 13(5) and 14 health claims)? The preamble to the Regulation states that: 'Health claims other than those referring to the reduction of disease risk, based on generally accepted scientific data, should undergo a different type of assessment and authorisation'.

[1] OJ L 404, 30.12.2006, p. 9.