Commission Regulation (EU) No 818/2013 of 28 August 2013 amending Annex III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of Sucrose esters of fatty acids (E 473) in flavourings for water based clear flavoured drinks (Text with EEA relevance)

COMMISSION REGULATION (EU) No 818/2013

of 28 August 2013

amending Annex III to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of Sucrose esters of fatty acids (E 473) in flavourings for water based clear flavoured drinks

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives[(1)], and in particular Article 10(3) and 30 (5) thereof,

Whereas:

(1) Annex III to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in food flavourings and their conditions of use.

(2) That list may be amended in accordance with the common procedure referred to in Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings[(2)].

(3) Pursuant to Article 3(1) of Regulation (EC) No 1331/2008, the Union list of food additives may be updated either on the initiative of the Commission or following an application.

(4) An application for authorisation of the use of Sucrose esters of fatty acids (E 473) as an emulsifier in flavourings was submitted on 20 August 2008 and has been made available to the Member States.

(5) Emulsifiers are needed to stabilise oily flavourings when these are added in water based beverages. Without the addition of an emulsifier the flavouring oil would not be soluble and would appear on the surface of the beverage as an oily ring. This prevents the even dispersal of the flavouring through the beverage and increases its exposure to oxygen, leading to reduced organoleptic acceptability. It also makes the development of clear beverages extremely difficult. These issues can be overcome to some extent with the use of washed oils, however those have reduced organoleptic acceptability. The use of Sucrose esters of fatty acids enables clear beverages with improved functionality of the added flavouring.

(6) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission is to seek the opinion of the European Food Safety Authority in order to update the Union list of food additives set out in Annex III to Regulation (EC) No 1333/2008.

(7) The European Food Safety Authority issued an opinion on sucrose esters of fatty acids (E 473) and established an Acceptable Dalily Intake of 40 mg/kg bw/day[(3)]. The exposure to sucrose esters of fatty acids resulting from the additional proposed use in clear flavoured soft drinks represents less than 0,1% of the ADI[(4)]. Taking into account that the exposure due to the additional use of this additive is negligible compared to the ADI, this additional use of Sucrose esters of fatty acids (E 473) is not liable to have an effect on human health.

(8) It is therefore appropriate to authorise the use of Sucrose esters of fatty acids (E 473) as a food additive in flavourings for water based clear flavoured drinks.

(9) Therefore, Annex III to Regulation (EC) No 1333/2008 should be amended accordingly.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1333/2008 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 August 2013.

For the Commission

The President

José Manuel BARROSO