Regulation (EC) No 109/2008 of the European Parliament and of the Council of 15 January 2008 amending Regulation (EC) No 1924/2006 on nutrition and health claims made on foods

REGULATION (EC) No 109/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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amending Regulation (EC) No 1924/2006 on nutrition and health claims made on foods

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Regulation (EC) No 1924/2006 of the European Parliament and of the Concil[(3)] establishes rules for the use of claims in the labelling, the presentation and the advertising of foods.

(2) Health claims are prohibited unless they comply with the general and specific requirements laid down by Regulation (EC) No 1924/2006 and unless they are included in Community lists of authorised health claims. Those lists of health claims remain to be established following procedures detailed in that Regulation. As a consequence, those lists were not in force on 1 July 2007, the date of application of that Regulation.

(3) For this reason, Regulation (EC) No 1924/2006 provides for transitional measures for health claims other than those referring to the reduction of disease risk and to children's development and health.

(4) Concerning health claims referring to the reduction of disease risk, no transitional measure was needed. Because of the prohibition of claims referring to the prevention, the treatment and the cure of a disease by Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs[(4)], and the introduction of the new category of claims referring to the reduction of disease risk by Regulation (EC) No 1924/2006, products carrying such claims should not have been on the Community market.

(5) The category of claims referring to children's development and health was introduced at a very late stage of the procedure for the adoption of Regulation (EC) No 1924/2006,

without providing for transitional measures. However, products carrying such claims are already present on the Community market.

(6) In order to avoid disruption of the market, it is therefore appropriate to submit claims referring to children's development and health to the same transitional measures as the other health claims.

(7) Regulation (EC) No 1924/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1924/2006 is amended as follows:

1. Article 14(1) shall be replaced by the following:

1. Notwithstanding Article 2(1)(b) of Directive 2000/13/EC, the following claims may be made where they have been authorised in accordance with the procedure laid down in Articles 15, 16, 17 and 19 of this Regulation for inclusion in a Community list of such permitted claims together with all the necessary conditions for the use of these claims:
   a reduction of disease risk claims;
   b claims referring to children's development and health.;

2. the introductory sentence of Article 28(6) shall be replaced by the following:

Health claims other than those referred to in Article 13(1)(a) and in Article 14(1)(a), which have been used in compliance with national provisions before the date of entry into force of this Regulation, shall be subject to the following:.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2007.

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

Done at Strasbourg, 15 January 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ