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EU HEALTH CLAIMS LAWS THREATEN DARK AGE FOR CONSUMER INFORMATION

Peer-reviewed paper highlights dire need for a more realistic and flexible approach

A peer-reviewed article published today concludes that European Union (EU) health claims legislation jeopardises consumer informed choice by poorly reflecting the current status of nutritional science. It urges food business operators to collaborate in order to influence the Nutrition and Health Claims Regulation (NHCR; No. 1924/2006) in a more realistic and flexible direction.

The article's author, Robert Verkerk PhD, executive & scientific director of campaign organisation the Alliance for Natural Health International (ANH-Intl), says the paper offers a stark warning of the potential implications of the NHCR if the authorisation process for health claims on foods and natural health products remains unchanged. The article highlights some of the key areas where the Regulation fails to meet its originally intended objectives, and suggests various work-arounds that could allow commercial operators to communicate outside the Regulation's very narrow remit. In the longer-term, however, ANH-Intl is committed to pushing for major reform.

"Although the aims of the NHCR, namely to prevent false, misleading or ambiguous claims, are laudable, its implementation is a nightmare," said Dr Verkerk. "The European Food Safety Authority acts as judge and jury in allowing and disallowing claims, yet ignores objections from everyone from consumers to academics and European Parliamentarians. This is a sorry state of affairs."

"Promoting natural and sustainable healthcare through the use of good science and good law"

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Because less than 250 claims have been authorised successfully, with nearly 1,800 now 'non-authorised' (disallowed), consumers will find it increasingly difficult to make informed food and nutritional choices. Although industry has the opportunity to conduct new research with the aim of getting more claims authorised, small- to medium-sized enterprises (SMEs) will be largely shut out of the process due its prohibitive cost. *"As legal experts have recently pointed out,"* added Verkerk, *"The NHCR may act as a clear technical barrier to international trade under World Trade Organization agreements. It may even result in a trade dispute that could apply much needed pressure to reform the EU law."*

So far, a total of just 222 general function and 9 disease risk reduction health claims have been added to the EU Register of health claims. As of 14th December 2012, these are the only claims allowed on foods. Meanwhile, the fate of nearly 1,600 claims on botanicals, probiotics and related substances hang in the balance while the European Commission determines how to proceed.

"By requiring proof of a cause-and-effect relationship between a proposed health claim and the food or nutrient in question, EFSA is distorting the true state of nutritional science," said Dr Verkerk. *"Member State flexibility over claims wording and a more targeted approach to clinical research will improve things in the short-term, but in the longer-term a graded claims system is needed. The grade should reflect the level and type of scientific support of the claim, and would give consumers a much more accurate picture of the status of scientific evidence for given foods and nutrients."*

With a rapidly growing evidence base demonstrating that diet and lifestyle hold the key both to the cause and the resolution of Western society's chronic disease burden, consumers are in desperate need of information about the health benefits of foods to help them make the most appropriate choices. *"New results from the EPIC trial show that following simple guidelines can reduce the risk of death from all causes by 34%,"* points out Dr Verkerk. *"But that relies on consumers operating in a marketplace where information on the health benefits of foods is widely available. By creating a nearly claim-free environment for ingredients other than vitamins and minerals, the NHCR threatens to leave consumers in a nutritional wilderness."*

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EDITOR'S NOTES

Reference to paper: Verkerk HJ. Implementing an EU health claim: Converting scientific language to consumer language. [*AgroFOOD Industry Hi Tech* 2013;24\(2\):32–5.](#)

Comments by lawyer Emmanuel Saurat that the NHCR may contravene World Trade Organization free trade rules: <http://www.nutraingredients.com/Regulation/Could-the-WTO-overturn-EU-health-claim-laws>

EPIC trial results: Vergnaud AC et al. Adherence to the World Cancer Research Fund/American Institute for Cancer Research guidelines and risk of death in Europe: results from the European Prospective Investigation into Nutrition and Cancer cohort study. [*Am J Clin Nutr* 2013;97:1107-20.](#)